

**CONSTRUCTION CONTRACT
BETWEEN
CITY OF BUCKEYE
AND
MMI TANK & INDUSTRIAL SERVICES, INC.
Contract No. 31800038**

THIS CONTRACT is entered into as of this ____ day of _____, 2019, by and between the CITY OF BUCKEYE, an Arizona municipal corporation ("City") and MMI TANK & INDUSTRIAL SERVICES, INC., an Arizona corporation ("Contractor"). The terms of this Contract are to be construed consistently with the other Contract Documents enumerated in Article 1 of the General Conditions of the Construction Contract.

In consideration of the mutual promises of the parties, the City and the Contractor agree as follows:

1. THE WORK: The Contractor shall furnish all labor, materials, equipment, and services required to complete the Scope of Work in the Proposal attached hereto as Exhibit A.
2. CONTRACT TIME: The Contractor shall commence the Work only if and when directed in a written Notice to Proceed signed by the City. The Work shall commence no later than 10 days from the date of the Notice to Proceed. Substantial Completion, as defined herein, shall be achieved within **One Hundred Eight (108) calendar days**. In view of the difficulty or impossibility of determining the City's damages from delay, should the Contractor fail to achieve Substantial Completion by that date, as extended by any City approved Change Orders, the Contractor agrees to pay and will pay to City, in addition to all other sums pursuant to the Contract Documents, the sum of **Four Hundred Thirty Dollars (\$430.00)** for each calendar day of delay as liquidated damages for such delay and not as a penalty. This sum may be withheld from the balance of the Contract Price as it becomes due. Should liquidated damages exceed the Contract Price due or to become due, then the Contractor shall pay the City the difference within 3 days of receipt of written demand.
3. CONTRACT PRICE: Subject to increases and decreases for Change Orders in accordance with the Contract Documents, the City shall pay to the Contractor the following Contract Price, in progress payments as provided in the Contract Documents: **Three Hundred Thirty Thousand Five Hundred Seventy Seven Dollars and Zero Cents (\$330,577.00)**.
4. SUPPLEMENTAL TERMS AND CONDITIONS: The following supplemental terms and conditions and/or documents are part of this Contract, or are incorporated by reference:
 - A. General Conditions of the Construction Contract.
 - B. [Exhibit A] Scope of Work/Contractor's Proposal
 - C. [Exhibit B] Interior/Exterior Tank Coating Specifications
 - D. RFP #31800038

THEREFORE, the City of Buckeye by its Mayor and City Clerk have hereunto subscribed their names this ____ day of _____, 2018.

CITY

THE CITY OF BUCKEYE, ARIZONA
an Arizona Municipal corporation

By: _____
Jackie A. Meck, Mayor

ATTEST:

Lucinda Aja, City Clerk

RECOMMENDED:

Christopher A. Williams,
Manager, Construction & Contracting

APPROVED AS TO FORM:

City Attorney

CONTRACTOR:
MMI TANK & INDUSTRIAL SERVICES, INC.

By: _____
Stacy Pinckard, President

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GENERAL CONDITIONS

ARTICLE 1 GENERAL DEFINITIONS

"Addenda" means clarifications or changes in the Work provided to bidders in writing prior to the public bid on the Contract.

"Contract Documents" or "Contract" means the Construction Contract Between City and Contractor, the General Conditions of the Construction Contract, any Supplemental Conditions of the Construction Contract, the Drawings, the Specifications, the Performance and Payment Bonds, the Project Manual, Addenda and Modifications.

"Date of Substantial Completion" shall be the date certified by the City that the work is in the Condition defined herein as substantial completion.

"Day" means calendar day unless specifically otherwise provided herein or by law.

"Modifications" means Change Orders signed by the City, or other written amendments signed by both the City and the Contractor at or after the execution of the Contract, or the City's written interpretations or directions for minor changes in the Work. A "minor change" is defined as one having no impact on cost or time or the City's approved design intent, as determined by the City.

"Project" means all components of the improvements to be constructed for the City, regardless of whether the Work is all or only a part.

"Project Manual" means the written volume so titled which includes the bid documents, sample forms, specifications, and description of the project.

"Substantial Completion" means the Contractor's work is sufficiently complete in accordance with the Contract Documents so that the City can occupy or utilize the work or designated portion thereof for the use for which it is intended.

"Work" consists of all labor (including supervision), materials, equipment, supplies and other items reasonably required to construct all or a portion of the Project according to the Contract Documents.

ARTICLE 2 INTENT

A. The Contract represents the entire and integrated agreement between the City and the Contractor, and it supersedes all prior oral or written negotiations, representations or agreements. The Contract may only be changed by written modifications, and the Contractor

understands and agrees that if the Contractor proceeds with any work upon verbal request only, Contractor is agreeing by his conduct that such work, or change in the work, constitutes a minor change.

B. The Contract Documents are to include all items reasonably necessary to construct the Work, expressly or by inference. Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.

ARTICLE 3 CONTRACTOR

A. The Contractor is the individual or legal entity identified in the Contract Documents who is licensed to perform the Work under the laws of the State of Arizona. The Contractor shall only use duly licensed Subcontractors in connection with the Work, subject to the provisions for City approval contained in the Contract Documents.

ARTICLE 4 OTHER CONTRACTORS AND COOPERATION

A. The City reserves the right to award other contracts related to the Project, or to perform certain work itself. Such other work may or may not be known to the City or disclosed to the Contractor prior to bidding this project. The Contractor shall afford the City and other contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall properly coordinate its Work with theirs in such manner as the City may direct. The Contractor shall also assure at its own cost reasonable access of other contractors to the site and their work.

B. Upon request of the Contractor, the City will provide the Contractor with a copy of all plans, specifications, schedules and other data relating to other contracts or work. The Contractor shall thoroughly examine these documents and shall within three (3) days of completing such examination notify the City in writing of any conflicts with the Work to be performed by the Contractor. In no event shall such notice be given so late as to interfere with or delay the work to be performed by the Contractor. Failure of the Contractor to request, review, or provide written notice as provided above shall constitute a waiver of any objections or claims the Contractor may have as a result of the necessity to coordinate the Contractor's work with other activities.

C. Should the Contractor sustain any damage through any act or omission of any other contractor, Contractor shall have no claim or cause of action against the City for such damage and hereby waives any such claim. The Contractor does not waive any claim or cause of action against any other contractor or subcontractor to recover any and all damages sustained by reason of the acts or omissions of such other contractor. The phrase "acts or omissions" as used in this section shall be defined to include, but not be limited to, any reasonable delay on the

part of any such other contractor, whether due to negligence, gross negligence, inadvertence or any other cause.

D. Should the Contractor cause damage to the work or property of any other contractor or of the City, the Contractor shall upon receiving due notice, promptly attempt to settle with such other contractor by agreement, repair or otherwise to resolve the dispute. If such separate contractor sues or initiates a proceeding against the City on account of any damage alleged to have been caused by the Contractor, the City shall notify the Contractor who shall, to the furthest extent permitted by law, indemnify and hold harmless for, from, and against defend such proceedings, and if any judgment or award against the City arises there from the Contractor shall pay or satisfy it and shall reimburse the City for all attorney's fees and court or other costs which the City has incurred.

ARTICLE 5

SITE CONDITIONS AND ENVIRONMENTAL MATTERS

A. The Contractor shall thoroughly acquaint himself with all available information concerning the conditions of the Work and is responsible for correctly and fully estimating the difficulty and cost of successfully performing the Work.

B. The Contractor agrees that it has thoroughly examined the site, plans and specifications, boring data and all other soils information and as-built data made available and by submission of the bid herein avows that it has satisfied itself as to the character, quality and quantity of surface and subsurface materials or existing obstacles to be encountered. The Contractor acknowledges that boring data and other soils information and as-built data made available is only a general indication of materials and/or conditions likely to be found adjacent to holes bored or in existing structures or facilities or other areas. If the Contractor determines that the information is erroneous, inadequate or ambiguous, it shall immediately report its conclusions to the City in writing. If the Contractor determines that the information is erroneous, inadequate, or ambiguous, and after reporting its conclusions to the City, remains dissatisfied or uninformed, the Contractor shall refrain from submitting a bid, or if the Contractor does submit a bid, the Contractor shall be deemed to have waived any claim it may have as the result of the alleged erroneous, inadequate or ambiguous information.

C. The Contractor shall immediately, and before such conditions are disturbed, notify the City in writing of:

1. Subsurface or latent physical conditions encountered at the site which differ materially from those indicated in the Contract and which were not known by the Contractor or could not have been discovered by careful examination and investigation of the information available at bid time and which could adversely affect the timely performance of the Work or its cost; or

2. Unknown and unexpected physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered in the locale or generally recognized as inherent in Work of the character provided for in the Contract.

D. The City shall within ten (10) days, or such other reasonable time as necessary, investigate the conditions discovered. If the City find that conditions are so materially different as to support an equitable adjustment in the Contract Price or the Contract Time, this will be done by written Change Order. If the City determine that no Change Order will be issued, the Contractor shall continue with the Work at no additional cost and under no change in Contract Time.

E. No claim by the Contractor for an increase in the Contract Price or Contract Time hereunder shall be allowed without proper advance notice and an adequate opportunity for the City to investigate.

F. Environmental Matters: Contractor shall provide or cause to be provided a copy of this Section (Environmental Matters) to each Subcontractor and each Sub-subcontractor participating in the Work.

1. Definitions. The following terms will have their respective designated meanings:

“Environmental Law” means any and all laws, ordinances, regulations, rules and administrative and court decisions (federal, state and local) now or hereafter in effect and as in effect from time to time and as amended from time to time pertaining to environmental conditions or to protection or regulation of the environment (including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et seq.); the Resource Conservation and Recovery Act of 1976 and the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.); the Toxic Substances Control Act of 1976 (15 U.S.C. Section 2601, et seq.); the Superfund Amendments and Reauthorization Act of 1986, Title III (42 U.S.C. Section 11001 et seq.); the Clean Air Act (42 U.S.C. Section 7401, et seq.); the Federal Water Pollution Control Act (33 U.S.C. Section 1251, et seq.); the Safe Drinking Water Act (42 U.S.C. Section 300f, et seq.); the Hazardous Materials Transportation Act (49 U.S.C. Section 5101, et seq.); the Oil Pollution Act (33 U.S.C. Section 2701 et seq.); the Arizona Environmental Quality Act (Arizona Revised Statutes Section 49-101, et seq.); the Arizona Underground Storage Tank Act (A.R.S. Section 49-1001, et seq.); the Arizona Water Quality Assurance Revolving Fund Act (A.R.S. Section 49-281, et seq.) and any successor statutes to the foregoing and any regulations, rules or guidelines promulgated pursuant thereto.)

“Hazardous Substance” means any of the following: (i) any petroleum, oil, gasoline, kerosene, other petroleum product, flammable substance, volatile organic compound, volatile solvent, explosive, asbestos, polychlorinated biphenyl, dioxin, toxic herbicide or pesticide, radioactive material, radon gas and materials containing formaldehyde; (ii) any material, substance or waste now or hereafter defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “extremely

hazardous substances,” “restricted hazardous wastes,” “toxic substances,” “regulated substances,” “solid wastes,” “pollutant,” or “contaminant” or words of similar import in any Environmental Law; (iii) any other material, substance or waste now or hereafter classified or regulated as “hazardous” or “toxic” under any Environmental Law; (iv) any material, substance or waste now or hereafter listed in the United States Department of Transportation Table (49 CFR 172.101) or classified by the United States Environmental Protection Agency as “hazardous” (40 CFR Part 302) or in any successor or replacement tables or classifications as in effect from time to time; and (v) any Hazardous Waste.

“Hazardous Waste” means “hazardous waste”, as defined in the Resource Conservation and Recovery Act of 1976 and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and any successor statutes and any regulations, rules or guidelines promulgated pursuant thereto as in effect from time to time (including, without limitation, any such waste resulting from removal of, demolition of, modifications of or additions to part or all of any existing structure, facility or equipment) .

“Contractor Hazardous Waste” means any Hazardous Waste arising during or from the Work that is generated by the acts or omissions of Contractor, a Subcontractor or any Sub-subcontractor (including, without limitation, a Contractor Release) and that is not City Hazardous Waste.

“City Hazardous Waste” means Hazardous Waste (i) that consists of Hazardous Substances in any existing structure, facility or equipment on City’s property or otherwise present on City’s property at commencement of the Work, and (ii) that has become Hazardous Waste due to any part of the Work. However, City Hazardous Waste does not include any Hazardous Substance that has become a Hazardous Waste due to any Contractor Release.

“Project Hazardous Waste” means any Hazardous Waste arising on City’s property from the Work (including, without limitation, Contractor Hazardous Waste and City Hazardous Waste), regardless of: (a) whether generated by the acts or omissions of City, Contractor, a Subcontractor or a Sub-subcontractor; (b) whether it consists of Hazardous Substances that were on or in City’s property at commencement of the Work and that have become Hazardous Waste in the course of the Work; and (c) whether it consists of Hazardous Substances that are brought on to City’s property for or during the Work by Contractor, a Subcontractor or a Sub-subcontractor and that have become Hazardous Waste in the course of the Work.

“OSHA” means the Federal Occupational Safety and Health Act (29 U.S.C. Section 651 et seq.) and any successor statutes and any regulations, rules or guidelines promulgated pursuant thereto as in effect from time to time.

“Release” means any discharging, disposing, dumping, emitting, emptying, escaping, injecting, leaching, leaking, pouring, pumping, releasing, spilling, or similar action or event.

“Contractor Release” means a Release of a Hazardous Substance (including, without limitation, Hazardous Substances that were on or in City’s property at commencement of the Work) arising from acts or omissions of Contractor or any Subcontractor or Sub-subcontractor or their

employees or workers. However, Contractor Release does not include Releases of pre-existing Hazardous Substances on City's property of which City had not made Contractor aware and as to which Contractor, Subcontractors and Sub-subcontractors acted reasonably.

G. General Requirements.

1. Compliance with Environmental Law and OSHA. Contractor shall comply with, and shall cause all Subcontractors and Sub-subcontractors to comply with, this section and with all Environmental Law and OSHA applicable to (i) Contractor, (ii) Subcontractors, (iii) Subsubcontractors, (iv) the Work and (v) all of their activities in respect of the Work.

2. Hazardous Substances. (i) Hazardous Substances may be transported to and from and stored, used and be present on City's property in such quantities as are generally recognized to be usual and customary for performance of the Work. (ii) Hazardous Waste may be generated on City's property of such kinds and in such quantities as are generally recognized to be usual and customary in connection with performance of the Work. Hazardous Waste so generated may be stored temporarily on City's property. (iii) Prior to final completion of the Work, Contractor shall remove or cause to be removed from City's property and disposed of in accordance with Environmental Law and OSHA any Hazardous Substances (other than Project Hazardous Waste) brought onto City's property during the Work or used in connection with the Work. (iv) Other than as provided in (i), (ii) and (iii), Contractor shall not, and Contractor shall cause all Subcontractors and Sub-subcontractors to not, dispose of, generate, manufacture, process, produce, Release, treat or otherwise store, use or have in or on or transport to or from City's property any Hazardous Substance, regardless of whether the Hazardous Substance is preexisting on City's property or otherwise.

3. Releases of Hazardous Substances. Upon any Release of any Hazardous Substance in connection with the Work, whether relating to a pre-existing condition on City's property (for example, arising from any demolition of, modification of, or addition to any structure, facility or equipment) or relating to acts or omissions of Contractor, a Subcontractor or a Sub subcontractor, Contractor shall take any immediate action reasonably necessary to contain the Release. City may elect to have Contractor control and carry out any containment, clean-up, removal and remediation activity. Alternatively, City shall have the right to elect to control and carry out any containment, clean-up, removal and remediation activity. Regardless of who takes the actions, Contractor shall absorb, without reimbursement from City, all costs and expense incurred by Contractor in connection with any Contractor Release. In addition, Contractor shall pay or reimburse City for all costs and expenses incurred by City relating to any Contractor Release. If the amount is not paid promptly, City may offset the amount against any amount payable by City to Contractor under the Contract Documents or otherwise. Remediation, removal, and other cleanup action arising from any Release shall be in full compliance with Environmental Law and OSHA and shall be subject to approval by City. In addition, City may require remedial, removal or other cleanup action in excess of applicable minimum requirements of Environmental Law and OSHA (A) as reasonably necessary or appropriate in the judgment of City to permit human use and habitation of City's property and

to permit use of City's property, and (B) as reasonably consistent in the judgment of City with such habitation and uses.

4. Hazardous Waste. City will arrange for handling, storage and disposal of any Project Hazardous Waste. On an interim basis until City can make arrangements, Contractor shall assure proper handling (including, without limitation, segregation from waste that is not Hazardous Waste) and storage of Project Hazardous Waste in full compliance with Environmental Law and OSHA. Contractor shall pay all of City's expenses of storing, handling and disposing of Contractor Hazardous Waste. City will deliver a statement to Contractor showing City's expenses, and Contractor will promptly pay such amount to City. If the amount is not paid promptly, City may offset the amount against any amount payable by City to Contractor under the Contract Documents or otherwise.

5. Notifications to City. Contractor shall notify City's Project Manager immediately upon occurrence of any of the following: (i) any discovery by Contractor, a Subcontractor or any Sub-subcontractor of any Hazardous Substance in any existing structure, facility or equipment on City's property. (ii) any Release of any Hazardous Substance on City's property in connection with the Work; (iii) the creation or generation of any Hazardous Waste resulting from the Work (including, without limitation, Hazardous Waste arising from the removal of, demolition of, modification of, or addition to any existing structure, facility or equipment); (iv) the need for any remediation or removal of any Hazardous Substance relating to the Work whether relating to a pre-existing condition on City's property or to acts or omissions of Contractor, a Subcontractor or a Sub-subcontractor; or (v) any claim, demand, inquiry, investigation, litigation or other action or proceeding by any governmental authority or other person relating to any Hazardous Substance, Hazardous Waste, Environmental Law or OSHA relating to the Work. Except for immediate action to contain any Release of any Hazardous Substance and except for interim handling and storage of Project Hazardous Waste, Contractor shall not take any action as to any matter in (i), (ii), (iii), (iv) or (v) without the prior written approval of City and City shall have the right to elect to control and carry out any such action or matter.

6. Other Asbestos. Contractor and each Subcontractor and Sub-subcontractor to comply with all requirements of Environmental Law and OSHA concerning any other asbestos in the Work area.

H. Construction Site Safety Requirements: Contractor shall have sole responsibility and liability for construction site safety. Without limiting other actions in this regard, Contractor shall, and shall cause each Subcontractor and Sub-subcontractor to, comply with worker health and safety requirements in Environmental Law and OSHA. In addition, Contractor shall take all reasonable necessary and appropriate steps to assure the health and safety of persons occupying any part of the facility in which the Work site is located or in the vicinity of or passing by the Work site and shall also take all reasonable necessary and appropriate steps to protect from damage or destruction the property of City and other persons in any part of the Facility in which the Work site is located or in the vicinity of or passing by the Work site. Among other actions in this regard Contractor shall comply with the requirements of the applicable fire code.

I. Environmental, Health and Safety Concerns by Contractor, Subcontractors or Subsubcontractors. If in the course of the Work, any environmental, health or safety concern exists or arises, whether relating to a Hazardous Substance, OSHA or otherwise, then the Work activities related to the concern must be discontinued until the concern is resolved. This means prior to disturbing a suspected Hazardous Substance or otherwise interacting with a potential health or safety hazard. The City's Project Manager must be notified immediately of the concern. Work shall not resume until approval has been provided by City. Close coordination will be maintained between City and Contractor so the Project schedule is impacted the least amount possible.

J. Scope of Indemnity. The indemnity in Article 13 of this Contract includes any claim by any person and City's attorneys' fees and other costs and expenses in defending any claim by any person that City is responsible or liable for any of the following arising from the acts or omissions of Contractor, any Subcontractor, any Sub-subcontractor or any of their employees or other workers relating to the Work: (i) any violation of Environmental Law or OSHA; (ii) any failure by Contractor, any Subcontractor or any Sub-subcontractor to perform or comply with any obligation or requirement in this Article, (iii) any Contractor Release of any Hazardous Substance; (iv) any improper disposition of any Hazardous Substance or Hazardous Waste; (v) any claim by any employee, agent, independent contractor or other worker of Contractor, any Subcontractor or any Sub-subcontractor and any claim by any other person of personal injury, death or property damage arising from any Contractor Release of any Hazardous Substance or arising from any failure by Contractor, any Subcontractor or any Sub-subcontractor to comply with any Environmental Law or OSHA or this section.

ARTICLE 6

PRODUCT SAMPLES, TESTS, AND CERTIFICATES

A. The Contractor shall furnish Product Samples of all items requested or required by the City. Product Samples shall be properly identified and submitted with such promptness as to cause no delay in Work or in the work of any other contractor and to allow time for consideration by the City. The City will review Product Samples.

B. Each Product Sample must be accompanied by a letter of transmittal containing the following information:

1. Date of Submission
2. Name of Project
3. Location of Project
4. Branch of Work (Specification Section Number)
5. Project Number
6. Name of Submitting Contractor

7. Name of Subcontractor

C. The Contractor shall furnish to the City a certificate stating that material or equipment submitted complies with Contract Documents. If a certificate originates with the manufacturer, the Contractor shall endorse it and submit it to the City together with a statement of compliance in its own name.

D. No tests, inspections or approvals performed or given by the City or others acting for the City or any agency of Federal, State or Local government nor any acts or omissions by the City in administering this Contract shall relieve the Contractor from its duty to perform the Work in accordance with the Contract Documents and applicable law.

E. Unless the City is authorized at the time of submittal to return samples at the Contractor's expense, rejected samples will be destroyed.

F. After delivery of materials, the City may make such tests as it deems necessary, with samples required for such tests being furnished by and at the cost of the Contractor. Any test is for the benefit of the City and shall not relieve Contractor of the responsibility for providing quality control measurements to assure that Work strictly complies with the Contract Documents. No test shall be construed as implying acceptance of materials, work, workmanship, equipment, accessories or any other item or thing.

G. On the basis of the test results, materials, workmanship, equipment or accessories may be rejected even though general approval has been given. If items have been incorporated in Work, the City shall have the right to cause their removal and replacement by items meeting Contract Document requirements or to demand and secure appropriate reparation to the City from the Contractor.

ARTICLE 7 SUPERINTENDENCE BY THE CONTRACTOR

A. The Contractor shall have a competent superintendent on the site at all times during the progress of the Work. Contractor's superintendent must be acceptable to the City. The superintendent shall have such assistants with such individual specialized competencies including, but not limited to, CPM scheduling, as may be necessary to fully understand and oversee all aspects of the Work. The superintendent and his assistants all shall be physically fit for their Work and capable of going to all locations where Work is being performed. A communication to the superintendent or his designated assistants by the City is binding upon the Contractor. The Contractor's superintendent shall be responsible for the prevention of accidents at the site. The Commercial Construction Safety Code of the Arizona Industrial Commission shall apply to all Work, and a copy of the Code shall be available at the site.

B. The Contractor shall at all times enforce strict discipline and good order among the workers on the Project and shall not employ or continue to employ any unfit person on the

Project or any person not skilled in the work assigned to him. The Contractor shall be responsible to the City for all acts and omissions of its employees, Subcontractors, Suppliers, anyone whom the Contractor may allow to perform or inspect or supervise any Work, and their agents and employees together with anyone whom the Contractor may allow to come on the Project site. In addition, if the Contractor receives written notice from the City to dismiss those subcontractors or employees or one who is a hindrance to proper or timely execution of the Work, the Contractor shall dismiss those employees and agrees to replace those dismissed without delay to the Project and at no additional cost to the City.

C. The Contractor shall competently and thoroughly direct and superintend all of the Work and shall be solely responsible for all construction safety, means, methods, techniques, sequences and procedures. It shall coordinate and schedule all Work under this contract, the performance of all its employees, Subcontractors, and Suppliers, and the timely procurement of all necessary labor, materials, equipment, supplies, and all else needed to do the Work.

ARTICLE 8 SUBCONTRACTS

A. The Contractor shall supply with its bid to the City a written list of all proposed subcontractors and suppliers. The City will promptly reply to the Contractor in writing stating whether the City, after due investigation, has any objection to any such proposed subcontractor or supplier. The Contractor shall not employ any subcontractor or supplier against whom the City has reasonable objection. If, prior to the award of the Contract, the City has a reasonable objection to any subcontractor or supplier and refuses in writing to accept such person or organization, the apparent low bidder may, prior to the award, either withdraw his bid without forfeiture of bid security or may propose an acceptable substitution thereof provided that same results in no change in the bid price. Failure of the bidder to submit an acceptable substitute in a timely manner shall render its bid nonresponsive.

B. No substitution or change shall be made by the Contractor in the subcontractor/supplier list after its submission to the City without prior written approval by the City. Unapproved or untimely substitutions may be cause for invalidation of the Contractor's bid in the City's discretion, thereby rendering the Contract voidable.

C. All work performed for the Contractor by a subcontractor shall be pursuant to an appropriate written agreement which specifically binds the subcontractor to all applicable terms and conditions of the Contract Documents, but no contractual relationship shall exist between any subcontractor or supplier of any tier and the City, unless the City invokes the assignment provisions of the following subsection. Upon request, the Contractor shall provide fully executed copies of any subcontracts and purchase orders to the City.

D. The Contractor hereby assigns to the City (and its assigns) all its interest in any subcontracts and purchase orders now existing or hereinafter entered into by the Contractor for performance of any part of the Work, which assignment will be effective upon termination

of the Contract by the City and only as to those subcontracts and purchase orders which the City assumes in writing. All subcontracts and purchase orders shall provide that they are freely assignable by the Contractor to the City and its assigns. Such assignment is part of the consideration to the City for entering into this Contract with the Contractor and may not be withdrawn prior to final completion.

E. The City may require each proposed subcontractor whose subcontract will exceed \$100,000.00 to furnish a performance bond and a payment bond on City-approved forms in the full amount of its subcontract. The City will reimburse the Contractor for the documented cost of the subcontractor's performance bond premiums in the event the City requires such bonds by the subcontractor.

ARTICLE 9 COMMUNICATIONS

A. All project notices, requests, instructions, modifications, approvals, and claims must be in writing, unless expressly specified otherwise in the Contract.

B. Communications will be deemed to have been made if delivered in person or if mailed to the address designated in the Contract or otherwise agreed upon by the parties.

ARTICLE 10 PERMITS, TAXES, AND FEES

A. The Contractor shall secure and pay for any necessary building permits and for all other permits, fees, licenses and inspections necessary for the proper execution and completion of the Work, and shall immediately deliver copies to the City. The Contractor shall be responsible for complying with all applicable Federal, State and local laws, codes, notice requirements, and regulations applicable to the site and prosecution of the Work. Contractor shall be responsible for and pay any costs associated with or arising from any non-compliance.

B. The Contractor shall pay all taxes for and related to the Work or its portion thereof which are legally enacted at the time bids are received, whether or not yet effective.

ARTICLE 11 INSURANCE

A. Insurance Requirements: Concurrently with the execution of the Contract, the Contractor shall furnish the City of Buckeye a certificate of insurance on a standard insurance industry ACORD form. The ACORD form shall be issued by an insurance company authorized to transact business in the State of Arizona.

B. Contractor, subcontractors and subconsultants shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property, which may arise

from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees, or subcontractors.

C. The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract.

D. The City in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, his agents, representatives, employees, subcontractors or subconsultants and Contractor is free to purchase such additional insurance as may be determined necessary.

E. Minimum Scope and Limits of Insurance. Contractor shall provide coverage at least as broad and with limits of liability not less than those stated below. The Contractor waives all rights of subrogation under the following policies.

(1) Commercial General Liability-Occurrence Form Policy shall include bodily injury, property damage, broad form contractual liability and XCU coverage.

General Aggregate	\$2,000,000
Products-Completed Operations Aggregate	\$1,000,000
Personal & Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000

The policy shall be endorsed to include the following additional insured language: "The City of Buckeye shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".

The policy shall contain a waiver of subrogation against the City of Buckeye.

(2) Automobile Liability- Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this Contract

Combined Single Limit (CSL)	\$1,000,000
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The policy shall be endorsed to include the following additional insured language: "The City of Buckeye shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor including automobiles owned, leased, hired or borrowed by the Contractor".

(3) Workers Compensation and Employers Liability

<u>Workers Compensation</u>	<u>Statutory</u>
Employers' Liability	
Each Accident	\$ 100,000
Disease-Each Employee	\$ 100,000
Disease-Policy Limit	\$ 500,000

(4) Umbrella/Excess Liability: Umbrella/Excess Liability insurance with a limit of not less than \$5,000,000 per occurrence combined limit Bodily Injury and Property Damage, that “follows form” and applies in excess of the Commercial General Liability, Automobile Liability, and Employer’s Liability, as required above.

The policy shall contain a waiver of subrogation against the City of Buckeye.

F. Additional Insurance Requirements. The policies shall include, or be endorsed to include, the following provisions:

(1) On insurance policies where the City of Buckeye is named as an additional insured, the City of Buckeye shall be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.

(2) The Contractor’s insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

(3) Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

G. Subconsultant’s and Subcontractor’s Insurance. Contractor’s certificate(s) shall include all subcontractors as additional insureds under its policies or subcontractors shall maintain separate insurance as determined by the Contractor, however, subcontractor's limits of liability shall not be less than \$1,000,000 per occurrence / \$2,000,000 aggregate. All coverage’s for subcontractors and subconsultants shall be appropriate to cover all of its work performed herein.

H. Notice of Cancellation. Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given, by certified mail, return receipt requested to:

Christopher A. Williams, Manager
Construction & Contracting Division
City of Buckeye
530 East Monroe Avenue
Buckeye, Arizona 85326

I. Acceptability of Insurers. Insurance is to be placed with insurers duly licensed in the State of Arizona and with an A. M. Best’s rating of no less than A -. The City in no way warrants that the above required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

J. Verification of Coverage

(1) Contractor shall furnish the City Certificates of Insurance (ACORD form or equivalent approved by the City) and with original endorsements effecting coverage as required by this Contract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. *Any policy endorsements that restrict or limit coverages shall be clearly noted on the certificate of insurance.*

(2) All certificates and endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to the earlier of commencement of work under this Contract or the signing of this Contract and remain in effect for the duration of the Project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

(3) All certificates of insurance required by this Contract shall be sent directly to the City of Buckeye, Manager, Construction & Procurement. The contract number and project description shall be included on the Certificates of Insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Contract, at any time.

K. Approval. Any modification or variation from the insurance requirements in this Contract shall be approved by the City, whose decision shall be final.

L. Liability Notwithstanding Insurance: Approval, disapproval or failure to act by Owner regarding any insurance supplied by Contractor or its Subcontractors shall not relieve the Contractor of full responsibility or liability for damages, errors, omissions or accidents as set forth in this Contract. Neither the bankruptcy or insolvency of Contractor's insurer nor any denial of liability by Contractor's insurer shall exonerate Contractor from the liability or responsibility of Contractor set forth in this Contract.

ARTICLE 12 INDEMNIFICATION

A. To the fullest extent permitted by law, Contractor agrees to defend, indemnify and hold Owner, its officers, agents and employees, harmless for, from and against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by Contractor's breach of any of the terms or provisions of this Contract, or by any negligent, grossly negligent or strictly liable act or omission of Contractor, its officers, agents, or employees, in the performance of this Contract; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the

sole negligence or fault of Owner, its officers, agents, employees or separate contractors. The provisions of this paragraph are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

ARTICLE 13 PROGRESS AND SCHEDULING

A. Planning, scheduling and progress monitoring are essential functions of the Contractor. Within ten (10) days after the award of the Contract, the Contractor shall prepare and submit for the City a Schedule of Values allocating the Contract Price among the various portions of the Work for purposes of progress payments. The Schedule of Values shall be substantially equivalent to AIA Forms G702 and G703 or as specified by the City.

B. The Contractor shall also furnish the City with a Narrative Report corresponding with each monthly update which shall include a description of current and anticipated problem areas, delaying factors and their impact, fragmentary networks (fragnet) of delays, and an explanation of corrective action taken or proposed. If the Project is behind schedule in any month, the Contractor's Narrative Report shall indicate precisely what measurements it will take in the next thirty days to put the Work back on schedule.

C. The Contractor shall employ and supply a sufficient force of workers, material and equipment, and shall prosecute the Work with such diligence so as to maintain the rate of progress indicated on the Progress Schedule, to prevent work stoppage, and to ensure completion of the Project within the Contract Time.

D. The Contractor shall be responsible to prepare, submit and maintain the schedules and Narrative Reports indicated above, and the failure to do so may be considered a material breach of this Contract. Any additional or unanticipated cost or expense required to maintain the schedules shall be solely the Contractor's obligation and shall not be charged to the City.

ARTICLE 14 DAILY LOG

A. The Contractor shall maintain a daily log of construction activities for each calendar day of the Contract Time, using a form approved by the City. The Contractor shall document all activities at the Project site, including:

1. Weather conditions showing the high and low temperatures during work hours, the amount of precipitation received on the job site, and any other weather conditions which adversely affect Work at the site;

2. Soil conditions which adversely affect Work at the site;

3. The hours of operation by Contractor and individual Subcontractor personnel;

4. The number of Contractor and Subcontractor personnel present and working at the site, by subcontract and trade, and updated schedule activity number.

5. The equipment active or idle at the site;
 6. A description of the Work being performed at the site, by updated schedule activity number.
 7. Any delays, disruptions or unusual or special occurrences at the site;
 8. Materials received at job site; and
 9. A list of all visitors at the site.
- B. The Contractor shall provide copies of the daily logs to the City on a weekly basis. The daily log does not constitute written notice to the City when such notice is required by the Contract Documents.

ARTICLE 15

MISCELLANEOUS DUTIES

- A. The Contractor shall submit to the City upon request all payrolls, reports, estimates, records and any other data concerning Work performed or to be performed and concerning materials supplied or to be supplied, as well as Subcontractor payment applications and each Subcontractor's progress payment check. The requirements of this subsection shall be provided in all contracts between the Contractor and its Subcontractors.
- B. During construction and for five (5) years after Final Payment, the Contractor shall retain and shall also require all Subcontractors to retain for review and/or audit by the City all correspondence, meeting minutes, memoranda, electronic media, books, accounts, reports, files, time cards, material invoices, payrolls, and evidence of all communications, direct and indirect costs, and all other matters related to the bidding and performance of the Work.
- C. Upon request by the City, a legible copy or the original of any or all such records shall be produced by the Contractor at any time during or after construction as the City may request.
- D. The Contractor shall be responsible for laying out its own Work and for any damage which may occur to work of any other contractor because of the Contractor's own errors or inaccuracies. The Contractor shall also be responsible for unloading, uncrating, storing and handling all materials and equipment to be erected or placed by it, whether furnished by the Contractor or others.
- E. The Contractor, Subcontractors and Suppliers shall be responsible for taking all appropriate field measurements prior to fabrication and installation of any item. Such measurements shall be taken sufficiently in advance so as to avoid any delay or potential delay. Failure to adhere to this provision shall render such delays the responsibility of the Contractor.
- F. Unless otherwise specifically mentioned, all anchors, bolts, screws, fittings, fillers, hardware, accessories, wiring, conduit, ductwork, trim and other parts required for or in connection with any item or material to make a complete, serviceable, finished and quality installation shall be furnished and installed as part of the item whether or not expressly called for by the Drawings or Specifications.

G. All materials shall be shipped and stored and handled in a manner that will afford protection and ensure their being in factory-new condition at the time they are incorporated in the Work. After installation, they shall be properly protected against damage or deterioration until Final Completion of the Project.

H. When standards and specifications issued by The American Society of Testing and Materials, the American Institute of Steel Construction, the U.S. Department of Commerce (Commercial Standards), or other technical or standard setting organizations are cited in the Contract Documents, such standards or specifications (and all related standards or specifications) shall be equally as binding and have the full force and effect as though incorporated word for word. Unless otherwise specifically stated, the standards and specifications referred to shall be the latest edition or revision of such specifications that is in effect on the date of the public bid.

I. Any part of the Work damaged during installation or prior to final acceptance of Work shall be repaired so as to be unnoticeable and to be equal in quality, appearance, serviceability and other respects to an undamaged item or part of the Work. Where this cannot be fully accomplished the damaged item or part shall be replaced. After installation, all exposed surfaces and parts of an item or of the Work shall be cleaned in a manner that will not damage the finish or any of the parts of the item, so that the completed work is left in first class condition, free of all defects. All damaged or defaced Work shall be repaired or replaced to the City's satisfaction at the expense of Contractor.

J. The Contractor shall procure and furnish to the City all guarantees, warranties, manuals and spares that are called for by the specifications or that are mentioned in the manufacturer's product literature. Guaranties and warranties shall commence as of the date of Substantial Completion of the Project.

K. The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and shall save the City harmless from loss on account thereof, except that the City shall be responsible for loss attributable when a particular design, process or the product of a particular manufacturer or manufacturers is specified. If the Contractor has any reason to believe that the design, process or product specified could be an infringement of a patent, it shall be responsible for such loss unless it promptly gives such information in writing to the City.

L. The Contractor shall limit its operations to the confines of the Project, except as necessary to connect to existing utilities, and shall not, without the prior written permission of the affected property City, and encroach on property outside the site. Contractor shall not permit unauthorized persons or activities on the site and shall maintain the site in a safe and secure manner.

M. The Contractor shall prearrange time with the City whenever it becomes necessary to interrupt any service to make connections, alterations or relocations and shall fully cooperate with the City in doing Work so as to cause the least annoyance and interference with the continuous operation of the City's business or official duties. Any existing plumbing, heating, ventilating, air conditioning or electrical disconnections which may affect portions of this construction or building or any other building must be coordinated with the City to avoid any disruption of operation within the building or construction or other building or utilities. In no case, unless previously approved in writing by the City, shall utilities be left disconnected at the end of a workday or over a weekend. Any interruption of utilities, whether negligently, intentionally, or accidentally, shall not relieve the Contractor's responsibility for the interruption or from liability for loss or damage caused by such interruption even though such loss or damage was not foreseeable by Contractor or subcontractor, or from responsibility for repairing and restoring the utility to normal service. Repairs and restoration shall be made before the workmen responsible for the repair and restoration leave the job.

N. The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. If the Contractor fails to properly clean up during construction, or if a dispute arises between the Contractor and/or separate Contractors as to their responsibility for cleaning up, the City may clean up and charge the costs thereof to the Contractors responsible as determined by the City. At the completion of the work he shall remove all his waste materials and rubbish from and about the Project as well as all his tools, construction equipment, machinery and surplus materials. If the Contractor fails to clean up at the completion of the work, the City may do so and the cost thereof shall be charged to the Contractor.

ARTICLE 16 INSPECTION OF WORK

A. All Work done and all materials are subject to inspection by the City to determine if they conform to the Contract Documents. The City shall at all times have access to the Work, including materials being fabricated or stored off site. The Contractor shall furnish at the Contractor's cost any facilities necessary for sufficient and safe access to the Work.

B. Inspections, tests, measurements, or other acts of the City are for the sole purpose of assisting the City in determining that the Work, materials, rate of progress, and quantities comply with the Contract Documents and/or Contractor's requests for payment. These acts or functions shall not relieve the Contractor from performing the Work in full compliance with contract requirements nor relieve the Contractor from any of the quality, compliance and responsibility for the Work assigned to it by the Contract Documents. No inspection by the City shall constitute or imply acceptance or waiver of rights.

C. Nonconforming Work or materials may be rejected and Contractor shall correct such rejected Work without additional compensation, even if the Work or materials have been previously inspected or accepted by the City or even if the City failed to observe the unsuitable Work or materials.

D. Any Work required to be inspected by the City prior to being covered, which is covered up without prior inspection or without prior consent of the the City, must be uncovered and recovered by the Contractor, if requested by the City, at no cost to City, notwithstanding the provisions of the following subsection.

E. Contractor shall notify the City in writing at least 48 hours prior to the time at which the City must be present to perform an inspection. Failure to provide such notice will place the Contractor at risk for all consequences of non-inspection and having to uncover work.

ARTICLE 17 CORRECTION OF WORK

A. If any portion of the Work is covered over contrary to the request of the City or as required by the Contract or the applicable building standards, it must be uncovered for observation at the Contractor's expense if requested by the City in writing.

B. If any portion of the Work, other than those portions required to be inspected by the City prior to being covered, has been covered over, the City may request that it be uncovered for observation. If such portion is found to be in accordance with the requirements of the Contract Documents, the cost of uncovering it shall be charged to the City as a Change Order. If such portion is found not to be in accordance with the requirements of the Contract Documents, the Contractor shall bear such costs.

C. The Contractor shall promptly remove from the site and replace any material or correct any Work found by the City to be defective or failing to conform to the requirements of the Contract, whether or not fabricated, installed or completed, and whether discovered before or after Substantial Completion. The Contractor shall bear all costs of correcting such Work or material, including the cost of necessary additional professional services and the cost of repairing or replacing all work of separate contractors or subcontractors damaged by such removal or correction. The City shall notify the Contractor immediately in writing upon its knowledge that additional professional services will be necessary and of the extent and estimated costs of the additional services. The City may consent to accept such Work or material with an appropriate adjustment in Contract Price.

D. If the Contractor does not promptly replace or correct such Work or material, the City may replace or correct the Work or material, and charge or deduct the cost of removal and replacement from any monies due to the Contractor, or recover such costs from the Contractor.

E. If, within two (2) years after the date of Substantial Completion, any of the Work is found to be defective or not in accordance with the requirements of the Contract, the Contractor shall correct it promptly after receipt of a written notice from the City to do so. If the Contractor does not promptly replace or correct such Work or material, the City may

replace or correct the Work or material, and charge or deduct the cost of removal and replacement from any monies due to the Contractor, or recover such costs from the Contractor. Nothing contained in this section shall be construed to establish a period of limitation with respect to any obligation of the Contractor under the Contract or the law. The obligation of the Contractor under this section shall be in addition to and not in limitation of any obligations imposed by special guaranties or warranties required by the Contract, given by the Contractor, or otherwise recognized or prescribed by law.

F. If, during the running of a guarantee or warranty period, the Contractor must perform repair work to any portion of the Work, the running of the warranty or guarantee period is tolled from the time the defect or deficiency is discovered through the time when the Contractor successfully completes all repairs and retesting and start-up activities.

ARTICLE 18 DELAYS AND TIME EXTENSIONS

A. If the Contractor is delayed at any time in the progress of the Work by any act or neglect of the City, or by any separate Contractor employed by the City, or by changes in the Work, or by labor disputes, fire, unusual delay in transportation, unusually severe weather conditions, adverse soil conditions, unavoidable casualties, delays specifically authorized by the City, or by causes beyond the Contractor's control, avoidance, or mitigation, and without any fault or negligence of the Contractor or Subcontractor or Supplier at any tier, then the Contract Time shall be extended by Change Order for such reasonable time as the City may determine that such event has delayed the critical path of the Work or individual milestone or overall completion of the Work after considering the advice of the City, if the Contractor complies with the notice and documentation requirements set forth below. The Contractor shall pay any additional fees or costs incurred by the City as the result of delays caused by the Contractor for circumstances not excused as provided herein.

B. Initial notice of any delay in the Work shall be made in writing to the City immediately but in no event later than 24 hours after discovery of the event giving rise to the delay. Then, Contractor shall provide additional details of the delay in writing to the City within seven (7) calendar days from the beginning of the delay. Failure to meet these time requirements shall absolutely bar any and all later claims. The detailed notice shall indicate the cause of the delay, the anticipated length of the delay, the probable effect of such delay upon the progress and cost of the Work, and potential mitigation plans. If the cause of the delay is continuing, the Contractor must give written notice every month at the same time it submits the updated progress Narrative Report to the City. Within fifteen (15) days after the elimination of any such delay, the Contractor shall submit further documentation of the delay and, if applicable, a formal written request covering an extension of time for such delay. The written request for time extension shall state the cause of the delay, the number of days extension requested and provide a fully documented analysis of the Progress Schedule, including a fragnet and any other data demonstrating a delay in the critical path of the Work or individual milestone or the

overall project completion. If the Contractor does not comply with the notice and documentation requirements set forth above, the claim for delay is absolutely barred.

C. If the Contractor incurs damages related to expenses caused by a delay for which the City is solely responsible, which is unreasonable under the circumstances, and which was not contemplated by the parties at the time of formation of this Contract, then the parties shall attempt to reach an agreement on the Contractor's claim, provided that the Contractor has notified the City in writing as specified above, including why the City is believed by the Contractor to be solely responsible for the delay. Failure to provide such timely notice shall be deemed an absolute and final waiver of any rights to additional sums. Any disputes will be resolved in accordance with the City of Buckeye Procurement Code, as amended or superseded.

D. The Contractor shall have no right to claim for alleged extended or unabsorbed home office overhead; claims for delays shall be limited to provable extended site costs.

E. The date of beginning and the time for completion as specified herein are ESSENTIAL CONDITIONS of this Contract; and it is further mutually understood and agreed that the Work embraced in this Contract shall be commenced on a date to be specified in the notice to proceed or at a preconstruction meeting, but in no event later than ten (10) days after the execution of this Contract, whichever first occurs. Said Work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. The time for completion of the same takes into consideration the average climatic range and usual industrial conditions prevailing in this locality. If the Contractor shall neglect, fail or refuse to complete the Work within the time herein specified, or any extension thereof granted by the City, then the Contractor does hereby agree to pay to City the per diem amount specified in the Contract. This amount is agreed to be liquidated damages for such breach and not a penalty therefore. The per diem amount shall be paid for each and every calendar day that the Contractor shall be in default after the time stipulated in the Contract for completing the Work. The amount is fixed and agreed upon by and between the Contractor and City because of the impracticality and extreme difficulty of fixing and ascertaining the actual damages the City would in such event sustain. Said sums may be withheld by the City from any amounts due to the Contractor from the City, whether as the result of this Contract or any other obligation between the City and the Contractor.

F. The parties hereby agree that if the Contractor submits an original or updated schedule which shows the project and/or individual Milestone(s) completing earlier than required by the adjusted contractual completion date(s), the differences between the forecasted early completion and the required completion shall be considered Project-owned float available for use by both the City and the Contractor.

G. The Contractor shall not sequester shared float through such strategies as extending activity duration estimates to consume available float, using preferential logic, using extensive crew/resource sequencing, etc. Since float time within the schedule is jointly owned, no time

extensions will be granted nor delay damages paid until a delay occurs which extends the work beyond the adjusted Contract completion date. Since float time within the Construction Schedule is jointly owned, it is acknowledged that City-caused delays on the project may be offset by City-caused time savings (i.e., critical path submittals returned in less time than allowed by the Contract, approval of substitution requests which result in a savings of time to the Contractor, etc.). In such an event, the Contractor shall not be entitled to receive a time extension or delay damages until all City-caused time savings are exceeded and the Contract completion date or milestone date is also exceeded.

H. It is agreed that no time extensions shall be granted nor delay damages paid unless the delay is clearly demonstrated by the updated Construction Schedule current as of the month the change was issued or the delay occurred and which delay cannot be mitigated, offset, or eliminated through such actions as revising the intended sequence of work or other reasonable means.

ARTICLE 19 SUSPENSION OF WORK

A. The City may, at any time and without cause, order the Contractor in writing or cause the Contractor to suspend, delay or interrupt all or any part of the Work for such period of time as the City may determine to be appropriate for its convenience. Equitable adjustment shall be made for any increase in the Contract Time necessarily caused by such suspension or delay by written Change Order.

ARTICLE 20 RIGHT TO STOP WORK

A. If the Contractor fails to correct defective Work as required, or fails to carry out the Work in accordance with the Contract Documents, the City by written notice, may order the Contractor to stop the Work or any portion of the Work, until the cause for the order has been eliminated to the satisfaction of the City.

B. The City may stop Work without written notice for 24 hours whenever in its professional opinion such action is necessary or advisable to ensure conformity with the Contract Documents. The Contractor shall not be entitled to an adjustment in the Contract Price or Contract Time under this subsection. The right of the City to stop the Work shall not give rise to a duty on the part of the City to exercise this right for the benefit of the Contractor or others.

ARTICLE 21 CHANGES

A. After this Contract is signed, Modifications in the Contract Price, the Contract Time or Scope of the Work may only be made by written Change Order.

B. By written directive at any time, the City may make any changes within the general scope of the Contract or issue additional instructions, require additional or modified Work or

direct deletion of Work. The Contractor shall not proceed with any change involving an increase or decrease in cost or time without prior written authorization from the City and shall proceed in accordance with the procedures set forth in this section. If the Contractor proceeds with any change involving an increase or decrease in cost or time without written authorization as required by this paragraph, the Contractor hereby waives all rights or claims Contractor may have as a result of the change. The City's right to make changes shall not invalidate the Contract or relieve the Contractor of any liability. Any requirement of notice of change to the Surety shall be the responsibility of the Contractor.

C. The cost or credit to the City resulting from a change in Work shall be determined in one or more of the following ways:

1. By unit prices stated in the Contract.

2. By cost, as defined below, properly itemized and supported by sufficient, substantiating data to permit evaluation, plus a fee of ten percent (10%) of items (1) through (5) described below. Such costs shall be itemized by crafts as defined within the schedule of values and limited to the following items directly allocable to the change in the Work:

(a) Cost of materials, including delivery but excluding Subcontractor-supplied materials.

(b) Fully-burdened cost of labor, including, but not limited to, payroll taxes, social security, old age and unemployment insurance, vacation and fringe benefits required by agreement or routinely paid by contractor, and worker's or workman's compensation insurance but excluding Subcontractor's labor.

(c) Rental value of equipment and machinery to be established by rental receipts and not to exceed reasonable and customary rates for the locale of the Work. For owned equipment, contractor must prove reasonable rental rate pursuant to actual ownership costs.

(d) Cost of Subcontracted work calculated as above and Subcontractor's Field Supervision calculated in accordance with paragraph (5) below, plus Subcontractor's insurance and bond premiums as applicable. Insurance and bond premium cost shall not exceed a total of two percent (2%) of Subcontractor's documented cost.

(e) Contractor's Field Supervision not to exceed five percent (5%) of (1), (2) and (4) above; the parties agree that this mark-up shall fully cover all contractor Field Supervision overhead.

(f) Contractor's insurance and bond premiums not to exceed a total of two percent (2%), or documented cost.

(g) Sales tax at full value.

(h) If this method of cost or credit calculation is selected, in no event shall the combined total fee including all levels or tiers of Subcontractors exceed twenty percent (20%) of the total cost of paragraphs (1), (2), (3) and (4). Field Supervision is to be excluded at all levels for the purposes of the limit imposed by this paragraph.

3. By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation; provided that such lump sum shall not exceed that amount calculated under item 2. above.

D. If none of the above methods is agreed upon, the Contractor shall promptly proceed with performing the change, upon receipt of a written order signed by the City. Any dispute regarding the pricing methodology or cost of the change shall not relieve the Contractor from proceeding with the change as directed by the City. The cost or credit to the City shall be determined by the City on the basis of the preceding subsection.

E. A fully executed Change Order shall be full and final settlement of all claims for direct, indirect, delay, disruption, inefficiency and any other consequential costs related to items covered or affected, as well as time extensions. Any such claim not presented by the Contractor for inclusion in the Change Order is irrevocably waived.

F. In an emergency affecting the safety of life, or of the structure, or of adjoining property, the Contractor, without special instruction or authorization from the City, is permitted to act at its discretion to prevent threatened loss or injury. Any compensation claimed by the Contractor on account of such emergency work shall be determined in accordance with this section.

ARTICLE 22

PAYMENT

A. Payments on account of the Contract Price will be made monthly as Work progresses. Payment Applications, covering labor, material, equipment, supplies, and other items completed, delivered or suitably stored on site during a period ending on the last calendar day of each month, shall be submitted to the City by the Contractor on the current edition of AIA Documents G702 and G703, within five (5) days after end of the period. Payment Applications shall be notarized, shall be supported by such data substantiating the Contractor's right to payment as the City may require, and reflect retainage, if any, as is provided. All payments shall be subject to any offset or retainage provisions of the Contract.

B. Each payment made to the Contractor shall be on account of the total amount payable to the Contractor, and title to all Work covered by a paid partial payment shall thereupon pass to the City. Nothing in this section shall be construed as relieving the Contractor from the sole responsibility for care and protection of materials and Work upon which payments have been

made, for restoration of any damaged Work, or as a waiver of the right of the City to require fulfillment of all terms of Contract Documents.

C. The City, within seven (7) days after receipt of the Payment Application, will either issue a Certificate for Payment for such amount as is properly due or issue written notice of the reasons for withholding such a certificate.

D. The issuance of a Certificate for Payment will constitute a representation by the City, observations at the site and the data comprising the Application for Payment, that the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in his certificate); and that the Contractor is entitled to payment in the amount certified.

E. Payment may be withheld in whole or in part to protect the City on account of:

1. Unsatisfactory job progress as determined by the City.
2. Defective Work or materials not remedied.
3. Disputed Work or materials.
4. Claims or other encumbrances filed or reasonable evidence indicating probable filing of claims or other encumbrances by Subcontractors or Suppliers, or others.
5. Failure of the Contractor to make payment to Subcontractors or Suppliers within seven (7) days after receipt of each progress payment.
6. A reasonable doubt as determined by the City that the Work can be completed for the unpaid balance of the Contract Price or within the Contract Time.
7. The Contractor's failure to perform any of its contractual obligations under the Contractor Documents, or any other Contract with the City.
8. Deficiencies or claims asserted by City against Contractor arising from any other project. Within fourteen (14) days following the receipt of the Certificate of Payment, the City shall pay to the Contractor 90% of the value of the Work in place and materials suitably stored at the site. The remaining 10% shall be retained by the City until the Contract is 50% completed at which time the retainage shall be reduced to 5%; provided that: (a) the Contractor is making satisfactory progress on the Contract; and (b) in the City's sole judgment, there is no specific cause or claim requiring a greater amount than 5% to be retained. Thereafter, the City shall pay the Contractor 95% of the value of the Work, unless and until it determines satisfactory progress is not being made, at which time the 10% retainage may be reinstated. Such 10% reinstatement would be 10% of the total contract value of Work in place and materials stored. The City's sole judgment concerning the satisfactory progress of the Work shall be final.

F. Within sixty (60) days after the issuance of the Certificate of Final Completion by the City and receipt of all other documents required by the Contract, all retained amounts shall be paid to Contractor as part of Final Payment:

1. The Final Payment shall not become due until the Contractor delivers to the City full and final unconditional releases from Subcontractors and major Suppliers acknowledging payment in full. Any claim filed thereafter shall be the responsibility of the Contractor.

2. If any claim remains unsatisfied after all payments are made, the Contractor shall immediately upon demand refund to the City all monies that the latter may be compelled to pay in discharging such claim including all costs, interest and attorneys' fees.

G. If any payment of the Contract Price is not made within thirty (30) days and without just cause, interest shall thereafter accrue on the unpaid principal balance at the minimum rate allowed by state law (A.R.S. § 44-1201) on the due date.

ARTICLE 23 WARRANTY

A. The Contractor warrants that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all Work will be free from faults and defects and in strict conformance with the Contract Documents.

B. Neither provision of manufacturers' warranties nor Final Payment nor use or occupancy of all or a portion of the Premises by the City shall constitute an acceptance of Work not performed in accordance with the Contract Documents or relieve the Contractor or its sureties of liability with respect to any warranties or responsibility for faulty materials and workmanship.

C. This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If the City takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the City takes possession.

D. The Contractor or its sureties shall remedy any defects in the Work and any resulting damage to the Work or the Work of others at its own expense.

E. The Contractor shall be liable for correction of all damage resulting from defective Work. If the Contractor fails to remedy any defects or damage, the City may correct the Work or repair the damages and the cost and expense incurred in such event shall be paid by or be recoverable from the Contractor.

F. The warranties provided in this section shall be in addition to and not in limitation of any other warranty or remedy provided by law or by the Contract Documents.

ARTICLE 24
SUBSTANTIAL COMPLETION

A. When the Contractor requests a Substantial Completion Inspection for the Work or a designated portion thereof, the City shall determine the validity of the request. A list of items to be completed or corrected shall be prepared by the Contractor and presented to the City with the request for inspection. By submitting a request for Substantial Completion Inspection the Contractor thereby certifies that it has performed a thorough inspection of the Project in preparing the list of items to be completed or corrected, has consulted with its subcontractors, and that the remaining incomplete or defective work shall be completed within thirty (30) days of submission of the request. The City shall evaluate the Contractor's request and list of uncompleted items and, if appropriate in their judgment, add to or delete items from the list necessary to complete the work. The failure to include items on any punch list shall not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. By submitting a request for Substantial Completion Inspection, the Contractor thereby certifies that the remaining incomplete or defective Work required by the Contract Documents shall be completed within thirty (30) days.

B. If the City, on the basis of Substantial Completion inspection, determines that the Work has been substantially completed in accordance with the Contract Documents, then the City will prepare a Certificate of Substantial Completion, which shall establish the date of Substantial Completion; shall state the responsibilities of the Contractor for remaining punchlist items, maintenance, heat and utilities, security, and damage to the work; and shall fix the time, not to exceed thirty (30) days, within which the Contractor shall complete the punch list. The Certificate of Substantial Completion shall be submitted by the City to the Contractor for their written acceptance of the responsibilities assigned to them in such Certificate. The Project shall not be deemed substantially complete until the Certificate is issued irrespective of City occupancy.

ARTICLE 25
FINAL INSPECTION

A. When the Contractor submits in writing to the City a request for a final inspection of the Work, the City shall determine the validity of the request. Following the inspection, if there are items to be completed or corrected, the City will determine the dollar value to be withheld in accordance with the retainage provisions of the Contract. In the event that the Contractor has not completed the punch list items within the time designated in the Certificate of Substantial Completion, the City retains the right to have these items corrected at the expense of the Contractor, including all architectural, engineering and inspection costs and expenses incurred by the City.

B. The City shall not be required to release the retainage until such items have been completed and inspected.

ARTICLE 26
ASSIGNMENT OF CLAIMS

A. The City and Contractor recognize that in actual economic practice overcharges resulting from antitrust violations are in fact borne by City. Therefore, the Contractor hereby assigns to City any and all claims for such overcharges. The Contractor in all subcontracts shall require all Subcontractors to likewise assign all claims for overcharges to the City.

ARTICLE 27 DISPUTES

A. All of Contractor's claims and disputes shall first be referred to the City for initial determination, by written notice, not more than seven (7) days from the occurrence of the event which gives rise to the dispute, or not more than seven (7) days from the date that the Contractor knew or should have known of the problem. Unless the claim is made in accordance with these time requirements, it is irrevocably waived. The City shall render a written decision within a reasonable time. The City's decision may be reviewed in accordance with City of Buckeye Procurement Code, as amended or superseded. Any claim not timely filed or not complete at the time of filing is irrevocably waived.

B. Any failure of the City to make a decision within the time limit set forth shall not be construed as acquiescence in all or any part of the Contractor's claim for relief. Unless otherwise agreed in writing, the Contractor shall carry on the Work and maintain its progress during any claims and controversy proceedings, and the City shall continue to make payments to the Contractor in accordance with the Contract Documents.

ARTICLE 28 FORUM

A. No suit or action shall be commenced hereunder by any claimant other than in the Arizona Superior Court, and only after all contractual and administrative procedures have been fulfilled. By submitting a bid for this project, Contractor agrees to be bound by the City of Buckeye Procurement Code Dispute Resolution Procedures and waives any objections to those procedures.

ARTICLE 29 TERMINATION BY THE CITY

A. This Contract may be terminated by the City under the conditions stated in A.R.S. § 38-511.

ARTICLE 30 TERMINATION FOR CAUSE

A. The City may terminate the Contract upon the occurrence of any one or more of the following events:

1. If the Contractor refuses or fails to prosecute the Work, or any separable part, with such diligence as will ensure its completion within the Contract Time; or if the Contractor fails to complete the Work within the Contract Time;

2. If the Contractor or any of its key subcontractors is adjudged a bankrupt or insolvent or makes a general assignment for the benefit of creditors, or if the Contractor or any of its key subcontractors or a third party files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws concerning the Contractor or any of its key subcontractors, or if a trustee or receiver is appointed for the Contractor or any of its key subcontractors or for any of the Contractor's property on account of the Contractor's insolvency, and the Contractor or its successor in interest or any of its key subcontractors does not provide adequate assurance of future performance in accordance with the Contract within ten (10) days after receipt of a request for assurance from the City;

3. If the Contractor fails to supply sufficient skilled workmen or suitable materials or equipment;

4. If the Contractor fails to make prompt payments to subcontractors or suppliers at any tier, or for labor, materials or equipment;

5. If the Contractor fails to comply with laws, ordinances, rules, codes, regulations, orders or similar requirements of any public entity having jurisdiction;

6. If the Contractor fails to follow any reasonable instructions by the City;

7. If the Contractor performs Work which deviates from the Contract Documents, and neglects or refuses to correct rejected Work; or

8. If the Contractor otherwise violates in any material way any provisions or requirements of the Contract Documents. Once the City determines that sufficient cause exists to justify the action, the City may terminate the Contract without prejudice to any other right or remedy the City may have, after giving the Contractor and its Surety seven (7) days notice by issuing a written Declaration of Default. The City shall have the sole discretion to permit the Contractor to remedy the cause for the contemplated termination without waiving the City's right to terminate the Contract.

B. If the Contract is terminated, the City may take over the Work and prosecute it to completion, by contract or otherwise, and may exclude the Contractor from the site. The City may take possession of the Work and of all of the Contractor's tools, appliances, construction equipment, machinery, materials, and plant which may be on the site of the Work, and use the same to the full extent they could be used by the Contractor, without liability to the Contractor. In exercising the City's right to prosecute the completion of the work, the City may also take possession of all materials and equipment stored at the site or for which the City has paid the Contractor but which are stored elsewhere, and finish the Work as the City deems expedient. In

such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

C. If the unpaid balance of the Contract Price exceeds the direct and indirect costs and expenses of completing the Work, and all City damages including liquidated damages and compensation for additional professional and consultant services, such excess shall be used to pay the Contractor for the cost of the Work it performed and a reasonable allowance for overhead and profit. If such costs exceed the unpaid balance, the Contractor shall immediately upon demand pay the difference to the City. In exercising the City's right to prosecute the completion of the Work, the City shall have the right to exercise its sole discretion as to the manner, methods, and reasonableness of the costs of completing the Work, and the City shall not be required to obtain the lowest figure for Work performed in completing the contract. If the City takes bids for remedial Work or completion of the project, the Contractor shall not be eligible for the award of such contracts.

D. If the Contract is terminated, the City may demand that the Contractor's Surety take over and complete the Work on the Contract. The City may require that in so doing, the Contractor's Surety not utilize the Contractor in performing the Work. Upon the failure or refusal of the Contractor's Surety to take over and begin completion of the Work within 20 days after the demand, the City may take over the Work and prosecute it to completion as provided above.

E. The City shall have the option of requiring any, all or none of the Subcontractors to perform according to their subcontracts and may assign any or all of the subcontracts to a general contractor selected to complete the Work.

F. If the City takes over the Work, unexecuted orders entered into by the Contractor for performance of any part of the Work will be effective upon acceptance by the City in writing and only as to those subcontracts and purchase orders which the City designates in writing.

G. The Contractor shall be liable for any damage to the City resulting from the termination or from the Contractor's refusal or failure to complete the Work, and for all costs necessary for repair and completion of the Project over and beyond the amount of the Contract. The Contractor shall be liable for all legal fees and costs required to enforce the provisions of the Contract.

H. If the City terminates the Contract, the Contractor shall remain liable for liquidated damages for delay until such reasonable time as may be required for final completion of the Work. Such damages shall be in addition to and not in lieu of any other damages sustained by City in completing the Work.

I. In the event the Contract is terminated, the termination shall not affect any rights of the City against the Contractor. The rights and remedies of the City under this section are in addition to any other rights and remedies provided by law or under this Contract. Any retention

or payment of monies to the Contractor by the City will not release the Contractor from liability.

J. If the Contract is terminated under this section, and it is determined for any reason that the Contractor was not in default under the provisions of this Section, the termination shall be deemed a Termination for Convenience of the City and, the rights and obligations of the parties shall be determined in accordance with the following section.

ARTICLE 31

TERMINATION FOR CONVENIENCE OF THE CITY

A. The City, by written notice to the Contractor, may terminate this Contract in whole or in part when sufficient appropriated or other funds are not available or in the sole discretion of the City it is in the City's best interest. In such case, the Contractor shall be paid for all Work executed and reasonable termination expenses, and a reasonable allowance for profit and overhead on Work done, provided that such payments exclusive of termination expenses shall not exceed the total Contract Price as reduced by other contract payments previously made to the Contractor and as further reduced by the value of the Work as yet not completed. The Contractor shall not be entitled to profit and overhead on Work, which was not performed.

ARTICLE 32

ASSIGNMENT OF CONTRACT

Contractor shall not assign any amount or part of the Contract or any of the funds to be received under the Contract unless Contractor has the prior written approval of the City and the Contractor's Surety has been given notice and has given written consent to any such assignment.

ARTICLE 33

LAW TO GOVERN

A. This Contract is made under and shall be construed in accordance with the laws of the State of Arizona. If any portion of this Contract is found to be unenforceable the rest and remainder of the Contract shall remain in full force and effect so as to effectuate the intent of the parties. Each party acknowledges that it has had an opportunity to review this Contract with counsel and this document shall be construed fairly and equitably so as to effectuate the intention of the parties irrespective of who is determined to have been the drafter of the document.

ARTICLE 34

E-VERIFY

A. E-Verify Requirements. To the extent applicable under Arizona Revised Statute § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify

requirements under Arizona Revised Statute § 23-214(A). The Vendor's or its subConsultant's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

ARTICLE 35

ISRAEL

A. Israel. Pursuant to Arizona Revised Statute § 35-393.01, Consultant certifies that it is not currently engaged in, and agrees for the duration of the Contract to not engage in, a boycott of Israel.

END OF SECTION

EXHIBIT A
to
Construction Contract
between
City of Buckeye
and
MMI Tank & Industrial Services, Inc.

[Scope of Work/Contractor's Proposal]

Sundance Vessels Scope of Work (Per Vessel)

1. Removal/storage of media, removal/disposal of support media and removal and storage of internal components for use in new vessel.
2. Remove concrete and head to facilitate concrete removal for removal of internal components.
3. Removal/disposal of existing vessel and install blind flanges on inlet and outlet header pipe
4. Fabricate new vessel from ½" SA516 Gr 70 material and fabricate vessel to accommodate for designed Cathodic Protection system
5. Perform necessary Hydrotest and ASME inspection with AI inspector
6. Blast and thoroughly clean
7. Apply coatings/painting on interior and exterior of vessel
 - a. Interior SP10 white blast two coats of Macropoxy 646 PW total 12 mils NSF.
 - b. Exterior shall be Sherwin Williams- (Primer Macropoxy 646 FC @ 4.0 – 6.0 mils Dry Film Thickness (DFT) & Finish Hi-Solids Polyurethane @ 2.0 – 3.0 mils DFT.
8. Install vessel and secure to concrete pedestals
9. Reinstall internal components in new vessel
10. Pour new concrete
11. Install (Pureflow) recommended barrier between interior wall and concrete Sikaflex.
Included in Concrete pricing.
12. Provide and install media(s) and reinstall stored media
13. Provide, install magnesium anodes and all necessary equipment for Cathodic protection system
14. Provide O&M training of Cathodic Protection system to operators once vessel is brought back online. Included pricing with Cathodic protection system.
15. Pricing includes Pureflow oversight of media removal and install. If deemed not necessary, total pricing will reflect removal from scope.
16. Fuel for equipment
17. Replace shower heads, Victaulic clamps, u-bolts, and passivate diffusers

***All parts and materials that water will contact must be NSF ANSI 60/61 approved**

SECTION VII: SUBMITTAL PROPOSAL FORM

RFP #31800038: Remove and Replace Two Welded Steel Water Treatment Vessels

Company Name MMI Tank & Industrial Services, Inc

Total Cost for the Entire Project in words:

Three Hundred Thirty Thousand Five Hundred Seventy Seven Dollars (\$ 330,577.00)

Proposed Schedule (TOTAL Number of Calendar Days) to Complete the Entire Project:

108

Item #	Description	Qty.	Unit Price	Extended Price
0001	Remove and Replace Vessel per Specification	2	165,288.50	330,577.00
Estimate calendar days to complete with an April 2, 2018 Notice to Proceed		Days <u>108</u>		

OFFER

Company Name: MMI Tank & Industrial Services, Inc

Authorized Representative: Stacy Pinckard

Title: President

Address: 3240 S 37th Ave Phoenix, AZ 85009

Phone Number: 602-272-6000 Email Address: stacy@mmitank.com

Fax Number: 602-272-6700 Website Address: mmitank.com

The undersigned proposer declares to have read and fully understand the Request for Proposals and agrees to all of the terms, conditions, and provisions contained therein; and proposes and agrees that if this proposal as submitted is accepted, vendor will contract to perform in accordance with the specifications and proposals. Said price is to include and cover all materials, labor, supervision, overhead, profit, and taxes to complete the job to the City's satisfaction.

Signature of Authorized Representative: Stacy Pinckard

Date: 1 March 2018

SECTION VIII: PROPOSAL CERTIFICATION/CONFLICT OF INTEREST CERTIFICATION

City of Buckeye
Construction & Contracting Division
530 Monroe Avenue
Buckeye, Arizona 85326

The undersigned certifies that to the best of his/her knowledge: **(check only one)**

☒ There is no officer or employee of City of Buckeye who has, or whose relative has, a substantial interest in any contract resulting from this request.

() The names of any and all public officers or employees of City of Buckeye who have, or whose relative has, a substantial interest in any contract resulting from this request, and the nature of the substantial interest, are included below or as an attachment to this certification. In compliance with **Request for Proposals #31800038, for Remove and Replace Two Welded Steel Water Treatment Vessels** in the City of Buckeye and after carefully reviewing all the terms, conditions and requirements contained therein, the undersigned agrees to furnish such good/services in accordance with the specifications/scope of work.

AMENDMENTS: Receipt of the following Amendments is acknowledged, and the provisions are included in this RFP:

Amendment No. 1 Dated 26 February 2018
Amendment No. _____ Dated _____
Amendment No. _____ Dated _____

Firm Name: MMI Tank & Industrial Services, Inc

Address: 3240 S 37th Ave

City: Phoenix, State: AZ Zip: 85009

Stacy Pinckard
(Signature Required)

Stacy Pinkard stacy@mmitank.com
(Print name) (Email)

President
(Print title)

1 March 2018
(Date)

CITY OF BUCKEYE
530 East Monroe Avenue
Buckeye, Arizona 85326
623.349.6174

ADDENDUM #1

Issue Date: February 26, 2018

Solicitation: Remove and Replace Two Welded Steel Water Treatment Vessels
RFP #31800038

Proposal Due Date: March 1, 2018 not later than 4:00 p.m. local time

NOTE: Attach this Addendum to your original Proposal. However, if your Proposal has already been returned, complete this Addendum and return for attachment to your Bid no later than then the date mentioned above to:

City of Buckeye
530 East Monroe Avenue
Buckeye, Arizona 85326
Attn: Debby Fasano, Purchasing Agent

The following questions has been asked:

1. **Question:** Per our site walk on February 21st, I'd like to see if you can get me drawings for the vessels as well as contact information for the manufacturer Pureflow.

Answer: Please find what the City has available in Attachment A. There is no guarantee that the plans are 100% accurate. The contractor who built the last vessel used the old vessel as a template. The Company that built the original vessel is Pureflow Filtration Division located in Whittier, California.

The balance of the specifications and instructions remain the same. Offerors must acknowledge receipt and acceptance of this addendum by returning the entire addendum with the Proposal submittal. Addendums are not included in the page count.

Offeror certified that Offeror has read, understand, and will fully and faithfully comply with this RFP, its attachments and any referenced documents. Offeror also certifies that this offer was independently developed without consultation with any other Offerors or potential Offerors.

Name of Company:

MMI TANK INC

Authorized Signature:



Print Name and Title:

STACY PINCHARD PRESIDENT

Date:

3-1-18

Address:

3240 S. 87TH AVE

City, State and Zip Code:

PHX AZ 85009

Telephone Number:

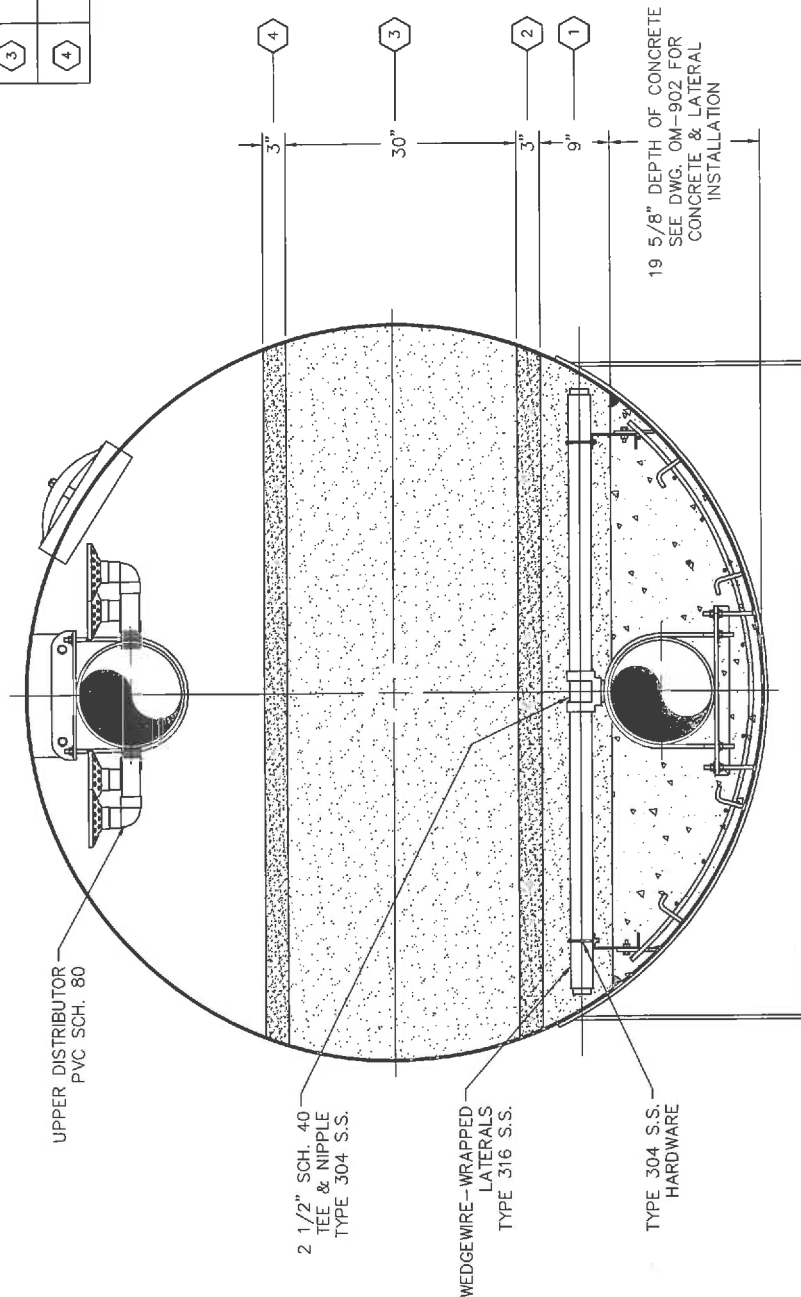
602-272-6000

Email Address:

STACY@MMITANK.COM

Attachment A
RFP #31800038

THIS DOCUMENT CONTAINS PROPRIETARY INFORMATION
WITH ALL RIGHTS & TITLES RESERVED AND MAY NOT
BE REPRODUCED IN WHOLE OR IN PART WITHOUT
WRITTEN CONSENT OF PUREFLOW FILTRATION DIVISION.



	MEDIA INFORMATION	APPROX. DEPTH	QTY. LBS. (kg) PER UNIT	# BAGS PER UNIT
1	PM 80 - 120	9"	14,500	144
2	PM 250	3"	5,000	50
3	PM 300	30"	49,500 (22,500)	18
4	ANTHRACITE	3"	2,028	39

W. J. [Signature]
Filtration Div.
CALIFORNIA ENVIRONMENTAL CONTROLS, INC.
8739 SOUTHWEST WASHINGTON AVENUE
WHITTIER, CALIFORNIA 90606
(800) 820-3465 (562) 946-3465
Fax: (562) 903-6267

ENGINEERS	RBF CONSULTING PHOENIX, AZ
CONTRACTOR	HUNTER CONTRACTING CO. GILBERT, AZ

[illegible]

DEVELOPER: MERITAGE HOMES
SCOTTSDALE, AZ

CLIENT: TOWN OF BUCKEYE, AZ

PROJECT: SUNDANCE ARSENIC REMOVAL SYSTEM

PROJECT	C-4500HT MEDIA
---------	-------------------

TITLE		DETAIL	
DRAWN BY	R. HOWARD		
CHECKED BY			
APPROVED BY			
DATE	04/16/05		
DRAWING NO.	OM-901		
SCALE	NTS		
JOB NO.	2523		
SHEET 1 OF 1		REV. NO.	A

THIS DOCUMENT CONTAINS PROPRIETARY INFORMATION
WITH ALL RIGHTS & TITLES RESERVED AND MAY NOT
BE REPRODUCED IN WHOLE OR IN PART WITHOUT
WRITTEN CONSENT OF PURFLOW FILTRATION DIVISION.

LOWER DISTRIBUTOR SPECIAL INSTRUCTIONS

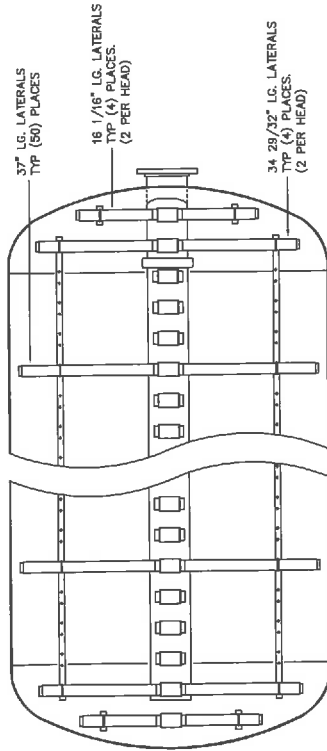
1. SEE LATERALS AND CONCRETE INSTALLATION.
2. LATERALS INSTALLED IN THE VESSEL PRIOR TO SHIPMENT.
3. LATERALS MUST BE REMOVED AND HOLES PLUGGED PRIOR TO POURING CONCRETE. (SEE DWG OM-802)
4. AFTER CONCRETE IS CURED, LATERALS MUST BE RE-INSTALLED WITH SUPPLIED U-BOLTS. (SEE DETAIL THIS SHEET)
5. SEE METHOD OF INSTALLATION IN RECEIVING INSULATION AND CONTRACTOR'S RESPONSIBILITY INSTRUCTION.

NOTES PRIOR TO POURING CONCRETE:

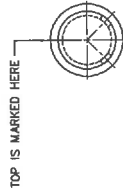
1. REMOVE ALL LATERALS EXCEPT THOSE SHOWN IN ALIGNMENT DETAIL BELOW. PLUG ALL TAPPED HOLES PRIOR TO POURING CONCRETE.
2. ALIGN AND LEVEL REMAINING LATERALS WITH HEADER & SUPPORT CHANNELS WITH TOLERANCE OF NO MORE THAN $\pm .5$ DEC. DEFLECTION. (SEE DETAIL 1 BELOW)
3. HEADER AND SUPPORT CHANNELS MUST BE SECURED TO VESSEL.
4. REMOVE REMAINING LATERALS PRIOR TO POURING CONCRETE.

NOTES FOR CONCRETE INSTALLATION:

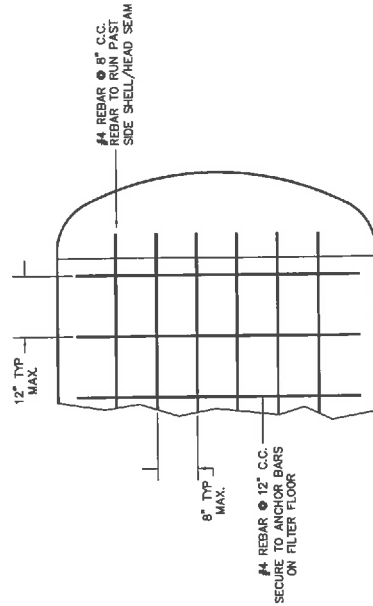
1. CONCRETE OF THE SAME QUALITY AS THE SLABS (3000 PSI MIN.) SHOULD BE USED. APPROXIMATELY SIX (4.4) CU. YARDS OF CONCRETE REQUIRED.
2. CONCRETE SHOULD BE MIXED TO PROVIDE A LOW SLUMP POURING CONDITION TO FACILITATE LEVELING.
3. TROWEL CONCRETE SURFACE TO INSURE A LEVEL, UNIFORM FINISH.



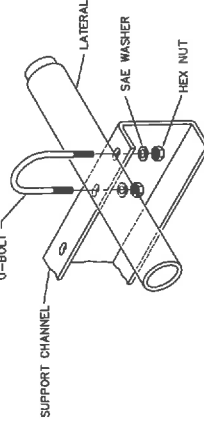
ALIGNMENT DETAIL



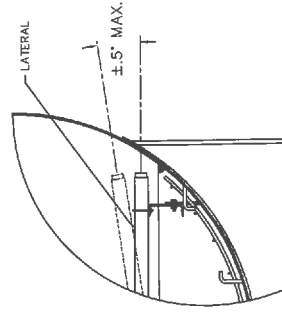
FINAL ORIENTATION OF LATERALS
MUST BE AS SHOWN HERE



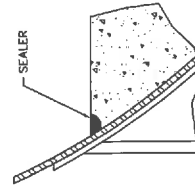
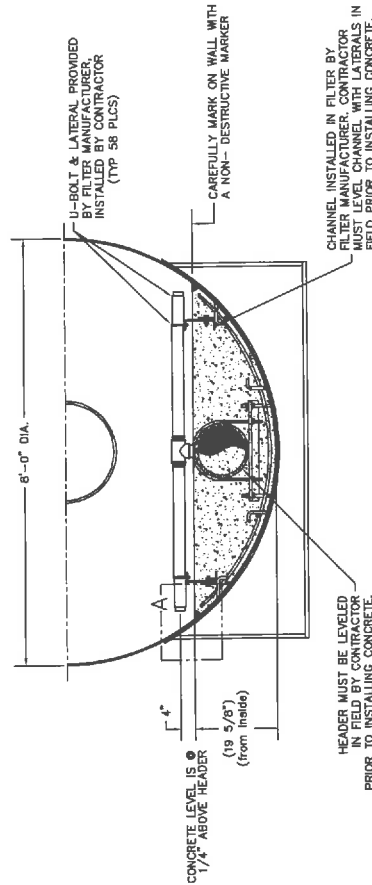
REFRAC INDEX



ISOMETRIC VIEW
TYPICAL LATERAL ATTACHMENT



DETAIL 1



LATERAL INSTALLATION

INSTALL SUITABLE FDA OR NSF APPROVED SEALER TO SEAL CONCRETE & VESSEL WALL AROUND PERIMETER. SIKAFLEX-1A IS APPROVED.

MEDIA DRAIN • HEAD
CONCRETE IS NOT TO
OBSTRUCT VICTAULIC
MEDIA DRAIN PORT

STEP 3

DETAIL A

RBF CONSULTING PHOENIX, AZ	CONTRACTOR HUNTER CONTRACTING CO PHOENIX, AZ
----------------------------------	---

[illegible]

DEVELOPER:
MERITAGE HOMES
SCOTTSDALE, AZ

CLIENT: TOWN OF BUCKEYE A7

PROJECT: SUNDANCE ARSENIC REMOVAL SYSTEM

**FILTER VESSEL
CONCRETE, REBAR
AND SEALANT
INSTALLATION**

TITLE	R. HOWARD			
DRAWN BY	CHECKED BY	APPROVED BY		
DATE	05/02/05		OM-902	
DRAWING NO.	SCALE		NONE	
JOB NO.	2523		REV. NO. A	
SHEET 1 OF 1				

**Exhibit B
to
Construction Contract
between
City of Buckeye
and
MMI Tank & Industrial Services, Inc.**

[Interior/Exterior Tank Coating Specifications]

TECHNICAL SPECIFICATION

SUNDANCE WATER TREATMENT PLANT VESSEL

**INTERIOR/EXTERIOR COATING
WELDED STEEL WATER TREATMENT VESSEL
CITY OF BUCKEYE ARIZONA**

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1. Scope

1.1 This Specification applies to the furnishing of all labor, equipment, and materials as further specified herein, including, but not limited to:

1.1.1 Coating the Exterior/Interior of new welded steel vessel used for water treatment, including but not limited to methods and requirements for materials, surface preparation, materials application, inspection and testing, and handling and disposal of debris.

Areas to be coated shall consist of all Exterior/Interior surfaces, including but not limited to shell, roof plates, framing, columns, reinforcing, ladders and railings, floor and piping.

2. Abbreviations

- ANASI: American National Standards Institute
- ASME: The American Society of Mechanical Engineers
- COB: City of Buckeye
- OSHA: Occupational Safety and Health Regulations
- CERCLA: Comprehensive Environmental Response, Compensation, and Liability Act
- CFR: Code of Federal Regulations
- ADHS: Arizona Department of Health Services
- EPA: Environmental Protection Agency
- MSDS: Material Safety Data Sheet
- NACE: The Corrosion Society
- NCI: NACE Coating Inspector Level 3 with Peer Review
- NFPA: National Fire Protection Association
- NIOSH: National Institute for Occupational Health Safety
- NPDES: National Pollutant Discharge Elimination System
- NSF: National Sanitation Foundation
- **SSPC**: The Society for Protective Coatings
- VOC: Volatile Organic Compounds

3. Referenced Codes and Standards

Unless otherwise specified herein, work under this Specification shall be performed in accordance with the following codes and standards in force on the date of award of the Contract to which this Specification is a part thereof:

- AWWA D-102-03 Latest Edition Coating Steel Water Storage Tanks
- 29 CFR 1910 Occupational Safety and Health Standards (General Industry Standards)
- 29 CFR 1910.1025 Lead
- 29 CFR 1926 Safety and Health Regulations for Construction (Construction Industry Standards)
- 29 CFR 1926.62 Lead

- 40 CFR 50 National Primary and Secondary Ambient Air Quality Standards
- 40 CFR 117 Determination of Reportable Quantities for Hazardous Substances
- 40 CFR 122 EPA Administered Permit Program: The National Pollutant Discharge Elimination System
- 40 CFR 262 Standards Applicable to Generators of Hazardous Waste
- 40 CFR 263 Standards Applicable to Transporters of Hazardous Waste
- 40 CFR 264 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 40 CFR 265 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 40 CFR 268 Land Disposal Restrictions
- 40 CFR 300 National Oil and Hazardous Substances Pollution Contingency Plan
- 40 CFR 302 Designation, Reportable Quantities, and Notification EPA Method 3050 Acid Digestion of Sediments, Sludges, and Soils NFPA 70 National Electric Code
- NIOSH Method 7082 Lead
- NSF 61 Drinking Water System Components, Health Effects
- SSPC Guide 6I(CON) Guide for Containing Debris Generated During Paint Removal Operations
- SSPC Guide 7I(DIS) Guide for the Disposal of Lead-Contaminated Surface Preparation Debris
- SSPC-PA 1 Shop, Field and Maintenance Painting
- SSPC-PA 2 Measurement of Dry Paint Thickness with Magnetic Gages
- SSPC-PA Guide 3 A Guide to Safety in Paint Application
- SSPC-SP 1 Solvent Cleaning
- SSPC-SP 3 Power Tool Cleaning
- SSPC-SP 5 White Metal Blast Cleaning
- SSPC-SP 6 Commercial Blast Cleaning
- SSPC-SP 7 Brush-Off Blast Cleaning
- SSPC-SP 8 Pickling
- SSPC-SP 10 Near-White Blast Cleaning
- SSPC-Vis 1-89 Visual Standard for Abrasive Blast Cleaned Steel

4. Project-Related Information

*** PLEASE SEE ATTACHMENT A ***

All Items to be coated and prepped per manufacturer specifications.

5. Worksite and Vicinity Requirements

- 5.1 CONTRACTOR shall not perform work outside work site limits and shall not leave said work site except to enter or leave the area via the access road.

- 5.2 CONTRACTOR is obligated to keep visual impact of the work site to a minimum, and to prevent damage to all existing structures, private property, and residences in the vicinity of the work site. CONTRACTOR shall restore all areas altered by construction to pre-job conditions and shall meet the requirements of COB. Such areas shall include, but shall not be limited to, areas used for travel, parking, and storage of vehicles, equipment and materials.
- 5.3 CONTRACTOR shall utilize existing roads in such a manner as to not damage existing roads or adjacent properties. Any damage to it shall be repaired by CONTRACTOR to the satisfaction of COB.
- 5.4 Work shall be performed to prevent fires and air pollution in accordance with the General Requirements. Said prevention shall apply to travel on access roads as well as on the work sites. All equipment shall be provided with spark arrestors and readily accessible fire extinguishers shall be kept on site.
- 5.5 CONTRACTOR shall prevent all dust or sand from blowing off the Water Treatment Site. CONTRACTOR may use any COB- approved method to prevent said dust or sand from flowing offsite including the placement of temporary shields, screens or covers, proper containment, and the use of self-contained sand blasting equipment.
- 5.6 CONTRACTOR shall prevent overspray from blowing off the Water Treatment Site during coating operation. CONTRACTOR may use any COB-approved overspray protection or shall limit coating the vessel to periods when wind speeds are minimal.
- 5.7 CONTRACTOR to use pipe plugs for the water inlets/outlets to help mitigate minor leaks and to prevent blast material from entering the pipeline.

6. Submittals and Approvals

- 6.1 Prior to scheduling any work, CONTRACTOR shall submit the following:
 - 6.1.1 Construction schedule showing order in which CONTRACTOR proposes to carry out work, dates of anticipated commencement and completion of work, and salient components thereof, and estimated percentage of work to be completed at any time during construction period.
 - 6.1.2 Manufacturer's data sheets for each coating, painting and caulking material to be used.
 - 6.1.3 Manufacturer's recommendations for height profile for each coating and painting material to be used.
 - 6.1.4 The CONTRACTOR shall submit any applicable warranties for materials provided.
- 6.2 The CONTRACTOR must furnish a notarized affidavit of compliance stating that the work and materials furnished meet requirements of this Specification and comply with Federal, state and local laws pertaining to the work.
- 6.3 The CONTRACTOR shall be an Arizona-licensed CONTRACTOR approved by the coating manufacturer or appointed representative.
- 6.4 The CONTRACTOR shall submit to COB a list of all thinners, primers, abrasives and coating materials to be used for the job, along with MSDS for each product.
- 6.5 A test report shall be prepared and submitted to COB at the conclusion of dry film

thickness testing. The test report shall be certified by a NCI who has witnessed the testing. The report shall include the test film thickness gage used, test locations, the dry film thickness at each location and the name of the person making the tests.

- 6.6 The CONTRACTOR shall prepare and deliver to COB an inspection report covering the first anniversary inspection that shall include, the number and type of failures observed, the percentage of the surface area where failure has occurred, the names of the persons making the inspection, and color photographs illustrating each type of failure.
- 6.6.1 Environmental Protection Program - The CONTRACTOR shall submit the following testing and evaluation programs that will be used to confirm that the work does not violate Federal, state and local laws. Laboratory qualifications shall be.
- 6.6.2 Worker Protection Program - The CONTRACTOR shall submit a worker protection program in accordance with Federal, state and local laws. For work involving lead based paint, workers shall be protected in accordance with 29 CFR Sections 1910.1025 and 1926.62. The worker protection program shall include the CONTRACTOR's reps confined space program.
- 6.6.3 Handling, Disposal, and Analysis of Debris - The CONTRACTOR shall provide the following written procedures. Laboratory qualifications shall be provided, where applicable.
 - 6.6.3.1 Sampling and Testing of Debris - Written procedures that will be followed for the sampling and testing of debris to determine if it is a hazardous waste. Debris includes, but is not limited to paint, spent abrasives, stripper solutions, water from water removal methods, and hygiene water. Final report will be provided to include all the inspection tests that were completed and the documented results/findings.
 - 6.6.3.2 Handling and Site Storage - A written plan for the handling and site storage of hazardous waste in accordance with the requirements of 40 CFR 262 and 40 CFR 265. The CONTRACTOR shall confirm that an EPA identification number will be obtained and that proper manifesting of the waste and site storage limitations will be addressed. The CONTRACTOR's plan shall provide for preparedness, prevention, and contingency plans for the steps to be taken in the event of an unplanned release or emergency.
 - 6.6.3.3 Transportation - Written confirmation that proper transportation of hazardous waste will be accomplished in accordance with the requirements of 40 CFR 263, including the name of the licensed transporter.
 - 6.6.3.4 Disposal - Written confirmation that hazardous waste will be treated and disposed of in accordance with the requirements of 40 CFR 264 and 40 CFR 268. The program shall provide assurance that the debris is handled properly from cradle to grave, provide the name of the licensed disposal

facility, and include a schedule for the submittal of the completed manifests to the owner.

- 6.6.3.5 Clearance Testing - Written programs for the decontamination of reusable items prior to removal from the project site, or for the proper testing and disposal of the materials if decontamination is not possible or desirable.
- 6.6.3.6 During the draining of the vessel, CONTRACTOR is responsible for removing the remaining 2" of water.
- 6.6.3.7 Reportable Releases - Written plan for reportable CERCLA releases in accordance with 40 CFR 300 and 40 CFR 302 and reportable releases of hazardous substances into the water in accordance with 40 CFR 117.

7. Sequence of Work

All coating work shall be performed at job site or at contractors' facility except as stated in Section 9 herein. CONTRACTOR shall coordinate shutdown of water vessels with the COB.

7.1 Surface Preparation and Ventilation

During sandblasting operations and coating and painting applications, CONTRACTOR shall use head protection, fire protection, and respiratory devices in accordance with AWWA D-102, latest edition. Use of these devices shall be mandatory and strictly enforced by the CONTRACTOR as his total responsibility. COB's representatives will not be continuously present and will not be responsible or liable for enforcing CONTRACTOR's adherence to these and other lawfully mandatory safety practices.

All work shall be performed by skilled craftsmen who are qualified to perform the required work in a manner compatible with the best standards of practice found in the trade.

7.2 Surface preparation

All surfaces shall be sandblasted by the dry sandblasting method. Sand used in the sandblasting operation shall be washed and graded. It shall be free of contaminants that could interfere with adhesion of coating or paint to be applied. Maximum particle size of abrasive particles shall produce a height profile in accordance with the recommendations of the coating or paint manufacturer. At all times during the blast cleaning operations, means shall be employed to insure that existing paint or coating shall not be exposed to abrasion from blast cleaning operations. All surfaces must be clean, dry, and free of any dirt, dust, grease, oil, salt, and other deleterious materials before any protective coatings or paints are applied.

7.2.1 Interior Surfaces

Preparation of all interior surfaces to receive protective coatings shall be blast-cleaned to "near white" metal in conformance with Steel Structures Painting Council Surface Preparation Specification SSPC-SP10 (NACE 2) – (95% of each square inch shall be free of all visible residues).

7.3 Ventilation

Ventilating fans shall be attached to all vessel manholes to provide air exhaust near

bottom of vessel. All vessel inspection hatch openings shall be left open to provide air supply. Fans shall be located as necessary to provide proper air movement throughout the entire vessel.

- 7.3.1 During coating application, CONTRACTOR shall ventilate tank coating with ventilating fans with a capacity of at least 300 cfm per gallon of coating applied per hour.
- 7.3.2 At the end of each work day, CONTRACTOR shall force-ventilate vessel interior until the next work day with a minimum of one complete air change each hour. CONTRACTOR shall force-ventilate vessel interior over weekends and holidays with one complete air change each hour. Ventilation fans shall operate 24 hours each day. Without restricting proper ventilation, CONTRACTOR shall prevent sand, dust or other material from adhering to the coating by the use of barriers, screen or other COB- approved methods. Damaged surfaces shall be repaired to COB's satisfaction.
- 7.3.3 After each vessel interior coat has been completed, CONTRACTOR shall force-ventilate vessel interior for a minimum of 72 hours with one complete air change each hour. Ventilation fans shall operate 24 hours each day.
- 7.3.4 Following the application of each coating and as directed by NCI, additional fans shall be located inside the vessel to facilitate proper air movement throughout the vessel. Combined capacity of additional fans shall equal one complete air change per hour. Placement of fans shall occur after coating has cured sufficiently to prevent damage to the coating. Additional fans shall operate a minimum of 48 continuous hours prior to placement of the next coating. Existing coatings shall be protected when placing fans and any damaged areas shall be repaired under COB's supervision and holiday-tested at the CONTRACTOR's expense.
- 7.3.5 After vessel interior coating has been completed, inspected, and accepted by NCI, CONTRACTOR shall force-ventilate vessel interior for a minimum of 7 days with one complete air change each hour. Ventilation fans shall operate 24 hours each day.
- 7.3.6 CONTRACTOR shall furnish all required equipment and labor to ventilate vessel interior including fans, generators, fuel, vandal-proof protective barriers, wind barriers, and manpower to insure adherence to the ventilation requirements.

8. Repairs

All Repairs are required to meet AWWA and work scope standards.

9. Materials and Application – Interior/Exterior

9.1 Restrictions

- 9.1.1 Material shall not be applied when the surrounding air temperature or temperature of the surface to be coated is below 40°F. Material shall not be applied to wet or damp surfaces, in rain, fog, or when the temperature is less than 5°F above the dew point within 8 hours after application of material.
- 9.1.2 Material shall not be applied when the surrounding air temperature or temperature of the surface to be coated exceeds 100°F. Material shall not be applied when the relative humidity exceeds 70 percent. Material shall not be applied when it is expected the air temperature or temperature of the surface will exceed 110°F within 2 hours following

application of material.

9.2 Coatings – General Information

Protective coatings shall be ANSI/NSF 61 approved for potable water and comply with AWWA standards. All materials including thinners shall be delivered to jobsite in original unopened containers bearing manufacturer's name, brand and batch number. They shall not be opened or used until NCI has physically inspected the contents and obtained necessary data from information printed on containers or labels. All materials opened or not approved shall be removed from the work site before any work begins. A request for material substitutions must be made and approved by COB in writing.

Only full, previously unopened containers of coating material shall be utilized during each coating session unless the CONTRACTOR receives NIC approval to do otherwise prior to opening the containers. Any mixed unused material shall be discarded.

All thinners must be approved and measured prior to placement in the coating material. Any amount of thinner added to the coating material without NCI's approval may result in the rejection of that material for use.

9.3 Coating for Exterior Surface

9.3.1 Prime Coat

Prime coat shall comply with AWWA standards; it shall be applied to a minimum dry film thickness to meet manufactures requirements.

9.3.2 Stripe coat applied to all sharp edges and rough welds

9.3.3 Finish Coat

Finish coat shall meet AWWA standards; it shall consist of one coat applied to a minimum dry film thickness to meet manufactures requirements.

9.3.4 Total Thickness

The total dry thickness shall meet manufactures requirements.

9.3.5 Application Requirements

Materials shall be stirred thoroughly with a slow speed power mixer until a smooth, uniform consistency is obtained. Compound shall be mixed in exact proportions specified by manufacturer. The material shall not be thinned except possibly in cold weather, and then only in strict accordance with the manufacturer's written recommendations. Coatings shall not be applied when the surface temperature of the area to be coated is below 40°F or above 100°F.

9.3.6 Dry Film Thickness Verification

NCI will measure the thickness of each coating to insure that the specified dry film thickness has been obtained and shall take final measurements 5 days after application of the finish coat.

9.3.7 Drying Time

A minimum of 7 days shall elapse between application of the finish coat and heavy use of equipment.

9.3.8 Color

Each coat shall be a different color than the preceding coat. The final coat shall be Buff and NSF Standard 61-approved.

9.3.9 Application

9.3.9.1 First Coat

The application of the prime coat shall immediately follow surface preparation before any rusting. CONTRACTOR shall use a fine bristle broom and air to clean surfaces after sandblasting and prior to application of prime coat.

9.3.9.2 Additional Coats

CONTRACTOR shall allow previous coat to thoroughly dry as specified herein before cleaning it. CONTRACTOR shall use a fine bristle broom and air to remove dust and other matter from each coat prior to application of any additional coats. All areas to receive additional coats shall be approved by NCI prior to application of said additional coats. Any areas receiving additional coats without NCI's approval shall be re-sandblasted to remove all coating, inspected, and then recoated.

9.3.9.3 Special Coats

9.3.9.3.1 Brush-Applied Coat

All sharp edges, nuts, bolts, welds, joints, connections, and similar surfaces shall receive a brush-applied coat of the specified coating prior to application of each complete coat.

9.3.9.3.2 Caulking

CONTRACTOR shall fully seal with continuous caulking all areas identified by NCI. CONTRACTOR shall apply caulking a minimum of 72 hours following the application of the final coat of epoxy, and at least 72 hours prior to holiday detection of adjacent coated surfaces. The caulking shall meet NSF standard for potable water contact. The coating shall be Sikaflex-2c, NS or COB-approved equal and shall be applied per manufacturer's instructions. CONTRACTOR shall thoroughly clean all epoxy-coated surface areas with clean white rags prior to application of the coating.

10. Inspection and Testing (CONTRACTOR-Provided Equipment)

10.1 During construction the CONTRACTOR shall provide an N.A.C.E. certified inspector will monitor the work to ensure workmanship. Documentation of N.A.C.E. certification must be provided.

- 10.2 After each section of the vessel has been sandblasted, it shall be inspected and approved by NCI prior to the application of any coating or paint. NCI will inspect for specified height profile by the use of a profile meter City can co-witness sandblasting is complete and meets standards. To allow NCI the opportunity to inspect each sandblasted area, CONTRACTOR shall clean said surfaces with a fine bristle broom and air and furnish scaffolding and lighting (including moving of same) to permit inspection as requested by NCI.
- 10.3 Prior to coating prepared steel, NCI shall inspect the surface profile for compliance with the manufacturer's recommendations or as stated otherwise in the Special Conditions.
- 10.4 All coating work shall be performed immediately upon inspection of the prepared surface.
- 10.5 All coating work will be tested by using methods and devices accepted as industry standards and as approved by NCI.
- 10.6 NCI's inspection shall include, but not be limited to, monitoring of environmental conditions, spot checking of wet and dry film thickness, inspection of all application methods and conditions of materials delivered to the job and just prior to application surface and ambient temperatures, dew point and humidity be measured and logged.
- 10.7 Illumination and Scaffolding – Whenever and wherever required by Inspector, CONTRACTOR shall furnish illumination (level of illumination as determined by NCI) and scaffolding (level of scaffolding as determined by NCI) to permit inspection prior to acceptance of work. CONTRACTOR shall move lights and scaffolding as directed by Inspector to enable him to inspect all surfaces, inside and out.

The CONTRACTOR shall provide inspection equipment including:

- Steel surface temperature thermometer.
- Sling psychrometer
- Psychrometric charts
- Surface profile comparator
- Testex Press AO \cong Film System tape
- SSPC-Vis 1-89 surface preparation standard
- WFT gauge DFT gauge with certified thickness calibration plates
- Low voltage holiday detector
- Viscosity cup
- Thermometer

10.8 Coating Film Thickness Testing

- 10.8.1 When film thicknesses are specified without an indicated tolerance, the allowable gage tolerance shall be twice the indicated accuracy of the measurement; that is, for a measurement with an indicated accuracy of ± 0.25 mil, the allowable film thickness tolerance is ± 0.5 mil.
- 10.8.2 The dry film thickness shall be measured by the CONTRACTOR in accordance with SSPC-PA 2. The dry film thickness measurements shall be made on all coating operations

primer, strip and finish by the NCI while surfaces are accessible at locations selected by COB's representative.

10.9 Holiday Testing

The total coating system on all exterior surfaces shall be tested by the CONTRACTOR in the presence of COB's representative with a wet- sponge, low-voltage holiday detector after the coating system has cured. The sponge shall be kept saturated with an electrolyte (5% sodium chloride) and a surfactant (2% household detergent). During testing the wet sponge shall be kept in continuous contact with the painted surface. Locations where holidays are detected shall be marked for repair and retested after repair work has been completed.

NIC shall approve each coat for specified cleaning before subsequent coats are applied. All areas coated or painted without said approval shall be sandblasted to remove all coatings and recoated after the specified inspection.

10.10 Completion of work

After CONTRACTOR cleaning under COB's inspection and disinfection, COB shall conduct VOC testing as required by the State Department of Health. Successful VOC test results shall constitute completion of CONTRACTOR work. Should any contaminant exceed requirements, the costs of subsequent draining, filling and testing shall be performed at the CONTRACTOR's expense. COB shall provide a notice of acceptance to the CONTRACTOR upon successful completion of work.

11. Disinfection, Filling, Testing and Sampling

COB will provide a reasonable quantity of water at no charge to CONTRACTOR for construction, pressure flushing, chlorination, and filling vessel; however, water for pressure flushing, chlorination, and filling will be limited to one event each. COB will charge for any additional events.

12. Site Cleanup and Waste Disposal

12.1 Sandblast Sand and Removed Coating

All sandblast sand, removed coating, and any other residual debris shall be collected, removed from the site, and disposed of at an approved legal disposal site. Said material shall be collected and directly moved from site. Said materials shall not be stockpiled outside the vessel prior to removal and disposal.

12.2 Cleanup

During all coating operations, site shall be kept clean and free of all empty buckets, paint cans, trash, and any other materials which gives the site an untidy appearance. CONTRACTOR shall provide a trash dumpster, shall clean site daily, and place all said materials in dumpster. Said dumpster shall be emptied a minimum of once a week. Upon completion of the work, all staging, scaffolding, containers, chunks of hit-applied enamel, rags, pieces of enamel, and all materials and equipment used in the performance of the work shall be removed from the site. All damage to surfaces resulting from the work shall be cleaned, repaired, or refinished to the complete satisfaction of COB.

13. First Anniversary Inspection

- 13.1 The interior and exterior surfaces of the vessel shall be inspected by Owner representatives and the CONTRACTOR at approximately one year after the coating work has been completed to determine whether any repair work is necessary.
- 13.2 The Owner shall establish a date for inspection and shall notify the CONTRACTOR at least 30 days in advance. If an inspection date is not established within 13 months after completion of painting work, the first anniversary inspection shall be waived.
- 13.3 The Owner shall partially or fully drain the vessel. The contractor shall provide safety equipment, suitable interior lighting and ventilation for the vessel inspection.
- 13.4 Locations where coating has peeled, bubbled, or cracked or where corrosion is evident shall be considered as failure of the coating system. The CONTRACTOR shall make repairs at all points where failures are observed by removing the deteriorated coating, cleaning the surface, and recoating with the same coating system. If the area of failures exceeds 25% of the area of a portion of the vessel surface, then for that portion, the entire coating system shall be removed and recoated. The contractor will be responsible for the cost of the removal and installation of media and internal components. The Owner may, at any point during or after the work under this Specification, use destructive test instruments to analyze coating failures observed. The Owner will establish a starting date and a reasonable time of completion for remedial work.
- 13.5 All remedial work performed shall be guaranteed for two years from completion for defects of materials and workmanship. The Owner may conduct a first anniversary inspection of remedial work and require repair of failures pursuant to this Specification.

**Exhibit C
to
Construction Contract
between
City of Buckeye
and
MMI Tank & Industrial Services, Inc.**

[Request for Proposal 31800038]



CITY OF BUCKEYE

**Request for Proposals
RFP No. 31800038**

REMOVE AND REPLACE TWO (2) WELDED STEEL WATER TREATMENT VESSELS

CONTACT PERSON

**Debby Fasano, Contract Administrator
Construction & Contracting Division
dfasano@buckeyeaz.gov
(623) 349-6174**

SCHEDULE OF EVENTS

Date Issued:	February 8, 2018
Pre Proposal Meeting:	February 21, 2018 at 8:30 AM
Last Day for Questions:	February 23, 2018 by 5:00 PM
Due Date & Time:	March 1, 2018 at 4:00 PM

PLEASE NOTE: IF RFP DOCUMENTS WERE DOWNLOADED FROM THE CITY OF BUCKEYE WEBSITE, PROPOSER IS RESPONSIBLE FOR OBTAINING ANY AMENDMENTS EITHER THROUGH UPDATES ON THE WEBSITE, OR BY CONTACTING THE CITY CONTACT PERSON.

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RFP #31800038

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EXHIBIT A: Specifications

SECTION I: GENERAL INFORMATION

The City of Buckeye Water Resources Department requires the removal and replacement of two existing welded steel vessel used for water treatment. The two welded steel tanks are to be coated on the exterior and interior and are located at the Sundance Booster Station, 22900 W. Yuma Road, Buckeye, Arizona 85326.

Proposals are to be addressed and delivered to the **City of Buckeye, Attn: Debby Fasano at 530 East Monroe Avenue, Buckeye, Arizona, 85326 on or before 4:00 P.M., local time (Buckeye, AZ), March 1, 2018**, at which time a representative of the City will announce publicly the names of those firms or individuals submitting proposals. No other public disclosure will be made until after award of the contract.

A non-mandatory **pre-proposal conference and site visit** will be held on **February 21, 2018, 8:30 AM**, local time at Buckeye City Hall, 1st Floor Executive Conference Room, 530 East Monroe Avenue, Buckeye, Arizona 85326 and then visiting the site. The purpose of this conference will be to clarify the contents of this Request for Proposal in order to prevent any misunderstanding of the City's intention and desires. Any doubt as to the requirements of this Request for Proposal, or any apparent omission or discrepancy should be presented to the City's representative at this conference. The City's representative will then determine the appropriate action. If necessary, the City's representative will issue a written amendment to the Request for Proposal. Oral statements or instructions shall not constitute an amendment to this Request for Proposal. You do not have to send a representative to this pre-proposal conference. However, if you decide not to send a representative, then we may not know of your intent to participate in this solicitation, and so may not send you any written amendments to this Request for Proposal. Further, we will assume that your failure to attend the pre-proposal conference and site visit is an indication that you expect us to review your proposal as if you had taken advantage of the pre-proposal conference and site visit.

Expected start date: April 2, 2018

Anticipated length of project: 151 Calendar Days (approximately 5 months)

Budget: \$180,000.00

SECTION II: PURPOSE OF THE RFP

1. BACKGROUND

The two existing welded steel water treatment vessels located at Sundance Booster Station are in need of removal and replacement per the attached specifications.

2. METHOD OF SELECTION

The intent of the City is to select one Contractor whose proposal is determined to be the

most advantageous to the City based on the evaluation factors set forth in this Request for Proposals. The successful Contractor will have demonstrated exceptional qualifications.

3. REQUEST FOR PROPOSALS

The City will conduct a prequalification screening of all submitted proposals by a designated selection team. The prequalification screening process will identify those firms who, in the City's sole discretion, best meet the City's needs. **Section V** details the Criteria used for evaluations of submittals. The City reserves the right to reject any or all submissions.

4. NEGOTIATIONS

After a ranking of submittals, the City will offer the highest ranked firm a thirty (30) day exclusive negotiation period. In the event that there is an impasse in the Negotiations, or the City negotiators determine that a contract cannot be achieved, the City reserves the right to go to the next highest ranked firm. This process may continue through those firms on the final list until a contract is successfully negotiated. The City reserves the right to reject all proposals at any time, or to cease negotiations over a contract at any time.

SECTION III: INSTRUCTIONS TO PROPOSERS

1. You must address and deliver your proposal to City of Buckeye, Attn: Debby Fasano, 530 E. Monroe Avenue, Buckeye, Arizona 85326, on or before the time and date set for closing.

Proposals should be in a sealed envelope marked:

Name of Proposer: _____
Title of Proposal: **Remove and Replace 2 Welded Steel Water Treatment Vessels**
RFP Number: **RFP No. 31800038**
Due Date and Time: **March 1, 2018, 4:00 P.M., Local Time**

No telephone, electronic or facsimile proposals will be considered. Proposals received after the time and date for closing will be returned to the proposer unopened.

2. Proposals should be submitted as a document set, containing **one (1) clearly marked original** and **five (5) additional copy. (For a total of Six (6) submitted)**

3. You may withdraw your proposal at any time prior to the time and date set for closing. Proposals withdrawn after opening but prior to award, may be withdrawn in accordance with the City of Buckeye Procurement Code.

4. No department or office at the City has the authority to solicit or receive official proposals other than the City's Construction and Contracting Division. All solicitation are performed under the direct supervision of the Manager of Construction & Contracting, City

of Buckeye and in complete accordance with City of Buckeye Procurement Code.

5. The City reserves the right to conduct discussions with proposers, to accept revisions of proposals, and to negotiate price changes. During this discussion period, the City will not disclose any information derived from proposals submitted, or from discussions with other proposers. Once an award is made, the solicitation file, and the proposals contained therein, are in the public record and will be disclosed upon request.

6. The award shall be made to the responsible proposer whose proposal is determined to be the most advantageous to the City based on the evaluation factors set forth in this Request for Proposals. Price, although a consideration, will not be the sole determining factor. No purchase order is issued with a proposer until a price is successfully negotiated and is approved by the City, as authorized by the City Council.

7. If you are submitting any information you consider to be proprietary, you must place it in a separate envelope and mark it "Proprietary Information". If the Construction & Procurement Manager concurs, this information will not be considered public information. The City Manager is the final authority as to the extent of material, which is considered proprietary or confidential. Pricing information cannot be considered proprietary.

8. Your proposal should be submitted in the format shown in **Section VI**. Proposals in any other format will be considered informal and may be rejected. Conditional proposals will not be considered. An individual authorized to extend a formal proposal must sign all proposals. Proposals that are not signed may be rejected.

9. The City reserves the right to reject any or all proposals or any part thereof, or to accept any proposal, or any part thereof, or to withhold the award and to waive or decline to waive irregularities in any proposal when it determines that it is in its best interest to do so. The City also reserves the right to hold all proposals for a period of 60 days after the opening date.

10. Definitions

"May": Indicates something that is not mandatory but permissible/desirable.

"Shall," "Must," "Will": Indicates mandatory requirement. Failure to meet these mandatory requirements will result in rejection of your proposal as nonresponsive.

"Should": Indicates something that is recommended but not mandatory. If the proposer fails to provide recommended information, the City may, at its sole option, ask the proposer to provide the information or evaluate the proposal without the information.

11. Any person, firm, corporation or association submitting a proposal shall be deemed to have read and understood all the terms, conditions, and requirements in the specifications/scope of work.

12. All responses and accompanying documentation will become the property of the City at the time the proposals are opened.

13. All formal inquiries or requests for significant or material clarification or interpretation, or notification to the City of errors or omissions relating to this Request for Proposals must be directed in writing to:

Debby Fasano, Contract Administrator
Construction & Contracting Division
City of Buckeye
530 E. Monroe Ave. Buckeye, Arizona 85326
Tel: 623-349-6225
Email: dfasano@buckeyeaz.gov

All formal inquiries must be submitted no later than **February 23, 2018 at 5:00 p.m. local time (Buckeye, Arizona)** in writing. Failure to submit inquiries by this deadline may result in the inquiry not being answered. Note that the City will answer informal questions orally. The City makes no warranty of any kind as to the correctness of any oral answers and uses this process solely to provide minor clarifications rapidly. Oral statements or instructions shall not constitute an amendment to this Request for Proposals. Proposers shall not rely on any verbal responses from the City. If you have formal questions about any part of this Request for Proposals, which could result in a material issue or a formal amendment to this Request for Proposals, submit your questions in writing or by email to dfasano@buckeyeaz.gov.

14. The City shall not reimburse any proposer the cost of responding to a Request for Proposals.

15. The City believes that it can best maintain its reputation for treating service providers and suppliers in a fair, honest, and consistent manner by conducting solicitations in good faith and by granting competitors an equal opportunity to win an award. If you feel that we have fallen short of these goals, you may submit a protest pursuant to the Procurement Code of the City of Buckeye.

SECTION IV: SPECIFICATIONS/SCOPE OF WORK

1.1 Project Description

The City of Buckeye Water Resources Department requires removal and replacement of two (2) existing welded steel vessels used for water treatment, including but not limited to methods and requirements for materials, surface preparation, materials application, inspection and testing, and handling and disposal of debris. The two welded steel tanks to be coated are located at the Sundance Booster Station, 22900 W. Yuma Road, Buckeye, Arizona 85326.

1.2 Specifications

Specifications for required equipment are attached hereto at Exhibit (A): Interior/Exterior Coating Welded Steel Water Treatment Vessel.

1.3 Substitution of Specified Items

Whenever in the specifications any item or process is requested or specified by manufacturer name, proprietary name or patent, such specifications shall be used for the purpose of facilitating descriptions of the item or process and shall be followed by the words "or equal". The Contractor may offer any item or process which shall be equal in every respect. However if the item or process delivered is not in the opinion of the City of Buckeye equal in every respect to the specifications then the Contractor must furnish the item or material with one that in the opinion of the City of Buckeye is equal.

1.4 Qualifications

Minimum qualifications for candidates to be considered for constructing this project shall have:

- 1) Contractor is licensed AND registered with the State of Arizona.
- 2) Five (5) years of professional construction experience in the coating of welded steel tanks.
- 3) Upon final negotiation of this contract, the Contractor must have or obtain a City of Buckeye Business License.
- 4) Upon final negotiation of this contract, the Contractor will register in the City of Buckeye's Vendor Self Service Software and provide a signed W-9.

1.4 Project Timeline/Schedule

The City of Buckeye intends to award this procurement in a timely manner upon review of all proposals. Removal and replacement and any other elements of this purchase will be completed as described in your proposal. It is anticipated to have an April 2, 2018 start date.

SECTION V: EVALUATIONS

MINIMUM QUALIFICATIONS

In order to be considered for evaluation, Contractor shall meet the following minimum qualifications:

1. Proposal submitted on or before the RFP closing date.
2. Proposal is in the format requested below.
3. Contractor is licensed to do business in the State of Arizona. Provide licensure information with your proposal.

4. Contractor has been in business for a minimum of five (5) years concurrently.

EVALUATION CRITERIA

In accordance with the City's Procurement Code, awards shall be made to the responsible Contractor whose Proposal is determined in writing to be the most advantageous to the City, based upon the evaluation criteria listed below (in their relative order of importance).

1. Meets Minimum Qualifications & Requirements (30 points)
2. Schedule (20 points)
5. Cost (50 points)

Total points possible = 100

EVALUATION OF PROPOSALS

A team of employees and management professionals will evaluate the proposals. The written proposals will be reviewed based on the evaluation criteria provided above.

SECTION VI: FORM OF PROPOSAL / SPECIAL INSTRUCTIONS

To facilitate direct comparisons, your proposal shall be submitted in the following format, listed in order, and index tabbed to match. Your proposal shall include, at a minimum, information requested below. If proposer fails to provide any of the requested information, with the exception of the mandatory proposal certification, the City may, at its' sole option, ask the proposer to provide the missing information or evaluate the proposal without the missing information.

A. SUBMITTAL AND REVIEW

2. **One (1) original and five (5) copy** of the prequalification information. Please note that these materials will not be returned.

3. The Arizona Public Records Act limits the City's ability to withhold prequalification and bid data. If a submittal contains any trade secrets that a submitter does not want disclosed to the public or used by the City for any purpose other than evaluation of the submitter's eligibility, each sheet of such information must be marked with the designation "Confidential." The City agrees that if a Public Records request is made for disclosure of data so classified, it will notify the submitter of such data so that the submitter will have an opportunity to legally challenge the City's obligation to disclose such information.

B. REQUEST FOR PROPOSALS CONTENTS

The Proposal shall contain, at a minimum, the following information in the following order:

Section 1: Meets Specification Requirements

Provide an understanding of the needs of the City of Buckeye. Proposer shall describe

proposed services as related to the Scope of Work and provide specifications.

Section 2: Proposed Schedule

Proposed schedule for removal and replacement of the vessels shall be submitted with your proposal. Schedule shall be inclusive of all services related to the Scope of Work.

Section 3: Cost

Cost for the project shall be submitted on the provided Submittal Proposal form in **Section VII** of this RFP, and enclosed with your proposal. Cost shall be inclusive of all services related to the Scope of Work.

END OF SECTION VI

SECTION VII: SUBMITTAL PROPOSAL FORM

RFP #31800038: Remove and Replace Two Welded Steel Water Treatment Vessels

Company Name _____

Total Cost for the Entire Project in words:

_____ (\$_____)

Proposed Schedule (TOTAL Number of Calendar Days) to Complete the Entire Project:

Item #	Description	Qty.	Unit Price	Extended Price
0001	Remove and Replace Vessel per Specification	2		
Estimate calendar days to complete with an April 2, 2018 Notice to Proceed		Days _____		

OFFER

Company Name: _____

Authorized Representative: _____

Title: _____

Address: _____

Phone Number: _____ Email Address: _____

Fax Number: _____ Website Address: _____

The undersigned proposer declares to have read and fully understand the Request for Proposals and agrees to all of the terms, conditions, and provisions contained therein; and proposes and agrees that if this proposal as submitted is accepted, vendor will contract to perform in accordance with the specifications and proposals. Said price is to include and cover all materials, labor, supervision, overhead, profit, and taxes to complete the job to the City's satisfaction.

Signature of Authorized Representative: _____

Date: _____

SECTION VIII: PROPOSAL CERTIFICATION/CONFLICT OF INTEREST CERTIFICATION

City of Buckeye
Construction & Contracting Division
530 Monroe Avenue
Buckeye, Arizona 85326

The undersigned certifies that to the best of his/her knowledge: **(check only one)**

() There is no officer or employee of City of Buckeye who has, or whose relative has, a substantial interest in any contract resulting from this request.

() The names of any and all public officers or employees of City of Buckeye who have, or whose relative has, a substantial interest in any contract resulting from this request, and the nature of the substantial interest, are included below or as an attachment to this certification. In compliance with **Request for Proposals #31800038**, for **Remove and Replace Two Welded Steel Water Treatment Vessels** in the City of Buckeye and after carefully reviewing all the terms, conditions and requirements contained therein, the undersigned agrees to furnish such good/services in accordance with the specifications/scope of work.

AMENDMENTS: Receipt of the following Amendments is acknowledged, and the provisions are included in this RFP:

Amendment No. _____ Dated _____
Amendment No. _____ Dated _____
Amendment No. _____ Dated _____

Firm Name: _____

Address: _____

City: _____, State: _____ Zip: _____

(Signature Required)

(Print name)

(Email)

(Print title)

(Date)